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GUAM LAND USE COMMISSION REGULAR MEETING MINUTES



Department of Land Management Conference Room ITC Building, Tamuning



Thursday, January 14, 2016 1:45 p.m. to 4:05 p.m.

GUAM LAND USE COMMISSION Regular Meeting Thursday, January 14, 2016

Department of Land Management Conference Room 3rd Floor ITC Building, Tamuning

MEMBERS PRESENT:

Mr. John Arroyo, Chairman

Mr. Victor Cruz, Vice Chairman

Ms. Conchita Bathan, Commissioner

Mr. Tae Oh, Commissioner

Mr. Michael Borja, Executive Secretary

Ms. Kristan Finney, Legal Counsel

Excused Absence: Commissioner Tricee Limtiaco

PLANNING STAFF PRESENT:

Mr. Marvin Aguilar, Guam Chief Planner

Mr. Frank Taitano, Case Planner

Ms. Cristina Gutierrez, Recording Secretary

GUAM LAND USE COMMISSION GUAM SEASHORE PROTECTION COMMISSION Attendance Sheet

Department of Land Management Conference Room 590 S. Marine Corps Drive, Third Floor, ITC Building, Tamuning

Thursday, January 14, 201 Time of Meeting: 1:45 pm	GLUC X GLUC X Regular Special ✓ Quorum Non-Quorum Non-Quorum Non-Quorum
COMMISSION MEMBERS John Z. Arroyo, Chairman Conchita D. Bathan, Commissioner Beatrice "Tricee" P. Limtiaco, Commissioner Victor F. Cruz, Commissioner Tae S. Oh, Commissioner Vacant, Commissioner	SIGNATURE La L
Vacant, Commissioner Michael J.B. Borja, Executive Secretary Kristan K. Finney, Legal Counsel Marvin Q. Aguilar, Chief Planner Frank Taitano, Planner IV Penmer Gulac, Planner IV	MB) - KHOCK Jus Hanho Infano
Celine Cruz, Planner IV Jeffrey Baker, Planner II M. Cristina Gutierrez, WPS II ADJOURNMENT:	Mightung

GLUC Form 19 - GLUC Commission Attendance Sheet

GUAM LAND USE COMMISSION GUAM SEASHORE PROTECTION COMMISSION

Speakers Sign-In Record

Location: Department of Land Management Conference Room 590 S. Marine Corps Drive, Third Floor, ITC Building, Tamuning

X GLUC	X Regular Date: Thursday, Janua	ry 14, 2016				
GSPC	Special Time: //4	S pm				
Quorum		17 pm				
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Print Name Applicant or Representative Telephone No.						
PHILLIP SCHRAGE	BANDVIEW DEVELOPHENT	049-2470				
Richard Sance	"	687-9865				
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GLUC Form 20 - GLUC Speaker Log Record Form - APRIL 2010

GUAM LAND USE COMMISSION GUAM SEASHORE PROTECTION COMMISSION

Public Attendance Record

Location: Department of Land Management Conference Room 590 S. Marine Corps Drive, Third Floor, ITC Building, Tamuning

X GLUC	X Regular Date: Thursday, Janu	ary 14, 2016
GSPC	Special Time: /: 45 pm	_
Quorum	No Quorum Adjournment:	4:13 pm
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GUAM LAND USE COMMISSION



Chairman John Z. Arroyo Commissioner Conchita D. Bathan Commissioner Tricee P. Limtlaco

Vice Chairman Victor F. Cruz Commissioner Tae S. Oh

Michael J.B. Borja, Executive Secretary Kristan Finney, Assistant Attorney General

AGENDA - Revised

Regular Meeting Thursday, January 14, 2016 @ 1:30 p.m.

Department of Land Management Conference Room 590 S. Marine Corps Drive, 3rd Floor, ITC Building, Tamuning

I.	Notation of Attendance	ſ	Quorum	ſ	1	No Quorum

- II. Approval of Minutes
 - GLUC Regular Meeting of Thursday, December 10, 2015
 - GLUC Special Meeting of Tuesday, December 22, 2015
- III. Old or Unfinished Business
- IV. New Business
- V. Administrative and Miscellaneous Matters

Order to Show Cause

- A. The Applicant, Grandview Development, LLC; order to show cause as to the reason(s) for failure to comply with the conditions of approval of an amended TDP for the Grandview Shopping Mall as noted on the GLUC Notice of Action dated March 29, 2013. [Continuation: GLUC Hearing – November 12, 2015] Case Planner: Frank Taitano
- VI. Adjournment

GUAM LAND USE COMMISSION REGULAR MEETING MINUTES

Department of Land Management Conference Room, ITC Building Thursday, January 14, 2016 • 1:45 p.m. to 4:05 p.m.

I. Notation of Attendance

Chairman Arroyo called to order the regular meeting of the Guam Land Use Commission for Thursday, January 14, 2016 at 1:45 p.m., noting a quorum.

Present were: Chairman John Arroyo, Vice Chairman Victor Cruz, Commissioners Conchita Bathan and Tae Oh, Executive Secretary Michael Borja, Legal Counsel Kristan Finney, Guam Chief Planner Marvin Aguilar, Case Planner Frank Taitano and Recording Secretary Cristina Gutierrez.

II. Approval of Minutes

<u>Chairman Arroyo</u> first item on the agenda is the approval of our regular meeting of December 10th, 2015. You've had the opportunity to take a look at that and if there are no questions or comments I will entertain a motion for approval.

Vice Chairman Cruz I move to approve.

Commissioner Bathan I second.

<u>Chairman Arroyo</u> motion by Vice Chair, second by Commissioner Bathan; any discussion [none]. All in favor of the motion say "aye" [Chairman Arroyo, Vice Chair Cruz, Commissioners Bathan and Oh], all opposed say "nay."

[Minutes of December 10, 2015 was approved unanimously; 4 ayes, 0 nay]

<u>Chairman Arroyo</u> the other Minutes that need approval are the Minutes of the special meeting that was held on December 22nd, 2015. You've also had the opportunity to take a look at that. If there are no questions about it I entertain a motion.

Vice Chairman Cruz I move to approve.

Commissioner Oh I second.

<u>Chairman Arroyo</u> motion by Vice Chair Cruz, second by Commissioner Oh; any discussion [none noted]. All in favor of approval say "aye" [Chairman Arroyo, Vice Chair Cruz, Commissioners Oh and Bathan], all opposed say "nay."

[Motion to approve the special meeting Minutes of December 22, 2015 was passed unanimously; 4 ayes, 0 nay]

III. Old or Unfinished Business

Chairman Arroyo do we have any old or unfinished business?

Marvin Aguilar nothing at this time.

IV. New Business

<u>Chairman Arroyo</u> do we have any new business? [Mr. Aguilar responded "no sir."] So, let's go to the Administrative and Miscellaneous Matters.

V. Administrative & Miscellaneous Matters

Order to Show Cause

A. The Applicant, Grandview Development, LLC; order to show cause as to the reason(s) for failure to comply with the conditions of approval of an amended Tentative Development Plan for the Grandview Shopping Mall as noted on the GLUC's Notice of Action dated March 29, 2013 [Continuation – GLUC hearing of November 12, 2015]. Case Planner: Frank Taitano

Chairman Arroyo Marvin, Frank ... you're up.

Marvin Aguilar (Chief Planner) the representative appeared before the Guam Land Use Commission at an earlier meeting and later was issued a notice of Order to Show Cause to appear today, this hearing, for the purpose of providing an exact plan of action of the future development of the Grandview Shopping Mall and to provide a status report of improvements currently where the project site is.

The status ... if you can recall from our status report ... and that's where they are sir. Apparently the representatives of this project are present right now to provide a response to this Order to Show Cause. No other information has been provided other than a report submitted by the applicant's representative; everyone should have a copy of that. We received this on January 7th, 2016 and it's titled *Grandview Development*, *LLC*, *Application 2008-003B Status Report to the Guam Land Use Commission*.

Within this report the applicant or the developer provides eight items of action that is currently ongoing. And if you like I can go ahead and provide it. In this report they provide the following:

- 1. Letter of Authorization for Representation:
- 2. GWA development fee agreement:
- 3. Design upgrades (a. Bus Shelters and b. Scope of Work and Site plan);
- 4. Letter extension of building and grading permit;
- Contract signing:

- 6. Building permit issuance for Phase I;
- 7. Letter extension of building and grading permit; and,
- 8. Building permit issuance for bus shelter sheds

Within that project the scope of this report is supporting documents that (if I may be allowed to pass onto the applicant's representative or developer's representative to provide further clarification).

<u>Chairman Arroyo</u> we'll get to that in a second. So, what we're faced with right now is that the NOA based on the amended Tentative Development Plan is now expired.

Marvin Aguilar yes sir.

<u>Chairman Arroyo</u> and that there were a few conditions in that NOA that the applicant had not, is not in compliance with. [Mr. Aguilar responds "yes sir."] Any other questions for the staff? [None noted at this time]

At this time, I would like to call the applicants up and if you could please state your name for the record.

<u>Richard Sana</u> (with Phillip Schrage and Fred Yamon, Goodwind Development) good afternoon Mr. Chairman, members of the Commission, Secretary Borja and Legal Counsel, Chief Planner Marvin Aguilar and Case Planner Frank Taitano.

This is in response to the Guam Land Use Commission's order for Grandview Development, LLC to appear on the GLUC's next meeting which is scheduled for today, January 14, 2016 to present, in the disposition, specifically to present a complete and exact plan and intention for Tumon Bay Mall and what is currently what is happening at the project site. The applicant, Grandview Development LLC (known as Tumon Bay Mall) is pursuing completion of this project as proposed in the amended tentative development plan approved by the GLUC on March 28, 2013. They have entered into a contractual agreement with BME & Sons Inc., a licensed general contractor to perform civil works on the project site. This Phase I work is currently ongoing and has obtained building permits for installation for underground power, water, sewer, landscaping of Tumon Bay frontage road, and marking of parking stalls, and construction of retaining walls. And these are indicated by permit number B14000468, and for the construction of bus shelters (B15000871). The estimated duration of the project is 270-calendar days from August 28, 2015 (which is the date of the building permit issued). Schedules for other phases will be dictated by the anchor store once on board.

And as indicated by Marvin, we have the list of attachments in here; the site development plan that's attached are actually ... describes the ongoing project now taking place at the Tumon Bay Mall project site. And several letters attached are also letters requesting the extension of the building permits or the approval, the GLUC approval and there are several dates in here and one them I believe was April 29, 2014. I know that when this letters were submitted there was

no response back from DLM and from the Commission. December 30, 2014 was a ... the date...corresponding letter with to GWA to approve the civil work or for the infrastructure to take place, and finally I guess, the date of this December 1st, 2014 when they came to agreement with owners and the developer and the GWA.

From what I understand and I think Mr. Schrage and Fred Yamon can better tell you what has transpired during the time that he got their Notice of Action and the time that he tried to obtain the building permit and there was a lot of back and forth discussions and by the time the building permit was acquired, the funding (I guess) the funding had also expired. So, I know that it was the disposition to show cause was also for some from the developer, company to appear before you, and so they can answer some of the questions that the Commission have for them.

As indicated in the letter, the work is ongoing as we ... to date is currently ongoing. They have a building permit, they have a contractor that's out there doing a lot of the civil works, the site work (you know) and the project I've been passed there several times during the week and I see actually ongoing activity.

Phillip Schrage if you've reviewed the letters we've always made an attempt to keep the government informed as to what the progress was on the project. Obviously during the first year after we acquired the property, we didn't do any improvements because the property could revert back to the previous owner. So obviously, we wanted ... we needed to wait for that one year to be over before we really spent any money other than routine maintenance and security on the project. Once that year was over and we were assured that we're going to own the property that's of course when we started determining what kind of layout it's going to be, designing it, obtain bids from various construction companies to determine what kind of (undecipherable) we could possibly get on the project those kind of things. So, we had to know how much it was going to cost us first before we can return our investment calculation. But if you refer to the different letters, everything in those letters go back to 2014 explain where we were every step of the program. We had nothing to hide, and really with the exception of what we're doing now which is also in one of those letters. We're doing the civil work and the exterior. The reason for that is it's two-fold; until you solidify an anchor store you can't really design the interior any way because the anchor store obviously would determine the layout of the first floor. And there was a period there where there was a party that was interested possibly leasing the whole building that didn't materialize, so in lieu of that there will be a food court on the second level and the rest of the project will be retail. Until you nail down an anchor you can't really design the interior without any kind of finality.

That being said, we decided to do the exterior work. We didn't want the project to look like it was stagnant; so if you do the exterior work and the civil work, which obviously at some point in time it would have to be done anyway it accomplished two things that makes it more leasable because perhaps an anchor store can envision (you know) what it's going to look like, the building is going to look like. With the exception of the façade we have not designed the façade because ... I mean we have an exterior design but depending on what the anchor store they

would obviously have a large input to the exact design for the façade so somebody started a rumor about Target; but, Target had some problems in Canada and they had to close 130 stores in Canada so Target is not expanding in any market so ... so the actual final design ... to get to this design we had to go through a couple of different architects and a couple of different designs. The first design looked like a 1960s roller rink it looked terrible; so, we went through a couple of design phases before we came up with this design. The final design obviously the anchor store would be on the first level. They might want big windows, they may not want big windows, they might want ...whatever the anchor is will determine a lot with the façade. The other exterior work the landscaping, the irrigation, the parking lot, the entrance, that kind of thing with the exception of the rear ---

Fred Yamon we (undecipherable/inaudible) on the first floor and the second floor.

<u>Phillip Schrage</u> so the first phase is what we're talking about when we're talking about the 285 days (whatever it is). It wouldn't make sense, like I said, without an interior design you can't really finish the drawing and rush to build it until you have who your tenants are going to be mainly your anchor store. So we the first phase we do everything ... exterior with the exception of what's behind the building correct?

Fred Yamon yes, grading of the back side.

Phillip Schrage so Phase I will not include paving for that so the ... so most likely Phase II. We know about one-third of the second floor will be a food court; there are no food courts in Tumon. With our experience at the Micronesia Mall we know they're very popular. It will be popular with the residents in Tumon, it will be popular also very popular with the tourists. I anticipate that will be the first thing that will fill up...but we are not running ... obviously we haven't run any ads seeking tenants for the Tumon Bay Mall because (you know) we're not at that stage yet because we have not designed the interior.

Chairman Arroyo first of all, I don't want you to misunderstand the reason for us calling you in. I think for myself and I think I can speak for the Commission, we're really in favor of this project. I mean I think our enthusiasm was evident when you guys came in (I think) in 2013 after you took the project over from Ino Corporation and you were going to move forward with that. I think it's going to be a boom for Tumon, for the tourists down there and definitely for the folks that live down in that area; me included because I live down there. And I think you guys did the island a huge favor in taking over the project once it kind of defaulted and ended up almost becoming an eye-sore down there. You really took that into hand and prevented that from happening. The problem is that, and I'm sure you well know that when you come to this Commission with a plan we consider that you've ...you're committed to the plan and that you have a certain timeframe under which you're going to complete the project. You also pretty much well know too that there is a limitation, a time limitation on TDPs, and that's a four year period and when we approved the amended the TDP we started the clock ticking all over again which means that that four year period ends sometime around May of 2017. The plan that you presented not only included the

commercial space but also the residential towers there. We need to talk a little about that and what your feelings are with respect to moving forward with those phases of the project.

Also I wasn't here when the initial request was approved; but, I have read through the Minutes and there had been some problems with violations of some of the conditions of approval. When you were here back in 2013, the Commission wanted to kind of keep some tabs on the project, and one of those things was to have you come back after six months and provide a status update. I know that you sent letters, but the letters you sent were after that six month period. I think the first one you sent was even after the NOA had expired. The one year period on the NOA was also a mechanism of which the Planning keeps tabs on the project and making sure that you came through to keep us updated. So, we do need to talk about those things too. We do need to talk about what your plans are for the future of the project and we need to address the expired NOA. We need to address if you're going to change the plan that was initially approved a couple of years ago.

<u>Phillip Schrage</u> actually like you I am new to this as well. There were two people above me that were involved in the purchase of the property; Vice President/General Manager and of course our President and I was not involved during the purchase of it ... for more than a year after that. So, I am relatively new to this but both of those gentlemen left the company and one retired and accepted another job. In that respect, I am kind of new to it as well so

<u>Chairman Arroyo</u> know that we want to help. Both of our hands are tied. There are certain rules and regulations that bind us and as you can see by the media today that we are sometimes under serious scrutiny, and so when need to make sure that we do you justice as well as the island, the citizens of Guam and we represent.

Any questions?

<u>Commissioner Oh</u> I wanted to quickly bring up the fact that based on the last Notice of Action which was dated March 29, 2013, and this is just directly out of the Notice of Action. It does state here that the *Guam Land Use Commission approves the applicant's request subject to the following conditions.*

- a) The applicant continues to adhere to the March 13, 2008 conditions listed on the original Notice of Action; and that
- b) The March 13th, 2008 Notice of Action be amended to show that it was temporarily suspended from October 11, 2011 to March 2, 2013 with a new expiration date of April 2014.

Then there are other conditions and what the original ... there were some conditions in the original Notice of Action which was dated on March 13, 2008 which was one of the ... I am not going to read out the whole thing, but there's a portion here under line item 4 (on the original Notice of Action) pursuant to Section 4 of the Interim "H" Resort Hotel Zone Rules and Regulations, the performance bond in the amount of 110 percent of the infrastructure cost of the

project and not less than two-thousand dollars is required and a copy shall be submitted to the Guam Chief Planner and the Department of Land Management.

I've read through the Minutes and I know there has been a request previously that the performance bond be waived. I do understand that it was denied, the request was denied. At this point in time, I'd like to kind of bring this issue up and put it back on the table and see where you as the developer stand on this issue and what we could do to alleviate this violation.

<u>Fred Yamon</u> I read about that it was actually granted. The offer was granted, I might be wrong but that's what I read.

<u>Commissioner Oh</u> no, it was not granted. There are ... we do have the Minutes and I do know there's been a request to waive it, but it hasn't been granted.

Phillip Schrage just for the Board's information, the redemption period expired October 8, 2013. And then our first letter was less than six months later dated April 29, 2014. We really didn't do anything on the project from October 8, 2012 to October 8, 2013 during that redemption period because the project could go back to the original owner.

<u>Commissioner Bathan</u> even if you didn't do anything on the project, you still have to submit the required status report.

Phillip Schrage I'm sorry, I couldn't hear you.

<u>Commissioner Bathan</u> even if there was no activity on the project because of the one year waiting period, you are still required to submit a status report every six months to the Commission.

Commissioner Oh there are certain issues that we do definitely need to work through here today. Like the most previous Notice of Action does state that there are certain condition (sic). This is referring back to the original Notice of Action including the performance bond, and the second item I can think of is probably there was supposed to be a six month update which never happened. The third issue on hand here is that the current or the most previous Notice of Action actually did expire as of April 2014. And it was ... we were a bit surprised when we realized that there was some activities going on, and we asked for further information and we did get further information that there were certain activities that did go on. There was a contractor selected without ... we weren't completely aware of that. On top of that the issue on hand here is the building permit was actually issued when the Notice of Action did expire. We did notice that there were two building permits that were issued out in 2015. This is after the March 2014 expiration date.

<u>Phillip Schrage</u> what was the date of the expiration because I know there is a letter attached to April 29, 2014 with an update. If you look at my letter of April 29, 2014 is the purpose of the letter is bring the Board up to date following that April 2013 indicating that we'd be breaking the

project by phases, and that we are in the process of obtaining sales bids from Guam contractors. At this particular time there was a party interested in the entire building as you can see in that letter. But subsequently, that did not materialize.

<u>Commissioner Oh</u> was this letter sent in order to kinda give us an update on the status of the project? Was that the intention of it?

Phillip Schrage yeah that was the intention. Had I known that we needed to appear personally no problem we can appear anytime anywhere. We weren't aware that a personal appearance was required otherwise we would there would be no reason not to. We have not concealed anything. All the letters in here are designed to be transparent every step of the way. Like I said, I wasn't aware, I wasn't made aware that we should appear before the Board. Rest assured in the future we will now that I know that. At that point, at anytime that I wrote a letter I was under, I wasn't made aware that we should also make a personal appearance.

<u>Chairman Arroyo</u> Richard, your company represented them at the time we approved the amended TDP, and I think it was Felix (Benavente) that was here. Are you aware if all this information was passed onto the client?

Richard Sana that was before my time. I was not aware of anything that was transpired with this project until just (you know) just taking over for Felix. Normally, this is how our representation works. Once we hand over the NOA to the client, it's the client's responsibility now to follow the conditions of the NOA and they should have been advised (you know) when the NOA is handed over they should be been advised that there are some conditions they need to comply with, and hopefully they've gone over those conditions with the client. And if we were on the retainer then possibly we would be doing the status report for them. If we were (you know) put on a retainer to continue to representing them until the project has been completed.

<u>Chairman Arroyo</u> Mr. Schrage, back in March of 2014, who would have been responsible at the company to receive the NOA from Mr. Benavente? Who would have been that person and what is the process that you have in place to kind of follow and keep track of the

Phillip Schrage basically I've never seen an NOA before in my life. Like I mentioned earlier, the GM of Operations left the company and his superior, the President had retired; so, both of those actions were not anticipated. No one in that level ... first of all, it was not automatic that I was going to be moved up. That decision took awhile and of course we made that decision internally and neither of those two gentlemen passed this information onto me because I was not in the position of any kind of authority at that time other than handling the Mall.

<u>Chairman Arroyo</u> Richard, a letter to the Commission ... this is your letter to us on November 12, 2015; (inaudible) required to the status update, you indicated and I'll quote this; you said that "the company expected that the status reports on progress are better submitted to the GLUC when action/progress was made and submitted them when actual, measureable action was accomplished." That did you mean by that?

Richard Sana well for example, NOAs have an expiration date of let's say normally one year and in that NOA's condition is to provide a status report whether you come in and appear before the Commission and provide the status report on the activities of project. But then if you don't have any activities then what is there to report. If there was actual activities then ... there is something to report and I think maybe maybe asking the Commission to maybe look at the... those reports and you know to obtain a building permit just to obtain a building permit sometimes takes a long time before we can actually have it in your hands. There's a lot of negotiations that goes on especially like when we were negotiating with GWA and GPA about power and water and utilities, you know, times would run out sometimes before you can actually get their permission.

<u>Chairman Arroyo</u> but this is what happened (Mr. Sana interjects and stated "I understand what you're saying); a report should have been made before since September 2013. What you could have told us was that you were doing nothing because you were waiting for the redemption period to expire. You could have also come back prior to the expiration of the NOA and said, we still ... the redemption period has just expired and now we can commit to financially, we can commit to finances to move forward with this project can you please extend our NOA. But because that didn't happen, here we are eighteen months later after the expiration of the NOA and we have to work through these problems.

Richard Sana I understand that sir.

<u>Chairman Arroyo</u> and the other thing too Richard is that we don't put those conditions in an NOA simply because we're putting them in there. I mean, you shouldn't read between the lines. You shouldn't expect to do something anticipating that we would expect you to do that thing. You should follow what's in the NOA, and if you have any questions you should ask Marvin or Frank. I mean, they are valuable resources and they're here to steer you in the right direction. I understand that you weren't probably representing the client at that time, but I am just saying that because it seems to me that this is what you're saying the client is saying in this letter.

Richard Sana when I was retained to do this it was a last minute and you can tell by the letter in the And basically (you know) I agree like I said if we were on a retainer with the client and I'm sure that this would never be overlooked we would be on top it. But, sometimes it makes it...I guess I don't want to be making excuses. But if we were on a retainer we would be on top of the conditions. We'll be aware of it. I would make the clients aware that this is coming up and we would have to submit kind of report and get with them and what are some of the activities that are going on so we can report and if there's none, you know then we report there's nothing going on but we are still working towards the building permits and those things to get this project going.

<u>Chairman Arroyo</u> okay. I want to get back to Commissioner Oh's comment on the performance bond. Where are we with your submission of that?

<u>Fred Yamon</u> we'll dig the files. As I've said earlier, I believe I read something that that was waived but I might be wrong; we'll take a look.

Commissioner Oh I'm definitely sure it was if it was it should have been indicated in the Notice of Action. I'm sure it has been brought up. I've gone through the Minutes and it's been brought up but has been denied. So, I know for a fact that as the expired the most recent Notice of Action states here the first condition, the first condition states that the applicant continues to adhere to the March 13th, 2008 conditions listed on the original Notice of Action which I have a copy of here also. And that was one of the conditions that was noted on the original Notice of Action.

<u>Phillip Schrage</u> now the performance bond would be for the construction of contract or something else? Where would that entail?

<u>Commissioner Oh</u> it's on the infrastructure and any further construction of the ... for the completion of the project. 110 percent of the infrastructure cost of the project.

Michael Borja was this bond because of the past performance of the previous developer?

<u>Chairman Arroyo</u> no, it's a requirement by the rules and regulations.

<u>Michael Boria</u> that's the thing about the hotel zone is a totally different creature. If you're not in it then you don't have to worry about lots of these kinds of things. But to be in it it's a whole new game of rules.

<u>Vice Chairman Cruz</u> I have a question. Now, what are your actual plans to move forward with this project?

Phillip Schrage we've signed a contract with BME to do Phase I, and the purpose of that is so at least when you drive by you don't know if it's an open project or closed project. I read in the newspaper some place somebody called it It wasn't a nice thing that appeared in the press, how they referred to it because ... and so you don't want it to look like a derelict property. We wanted to put emphasis on the outside for a couple of reasons so it doesn't look an eyesore, but also so that it would make it easier to lease. It's never easy to attract an anchor store to open halfway around the world. It's never ... we've experienced that. In the mid, late 80's when we opened Micronesia Mall we could not attract an anchor store so our only option was to be our own anchor store. Sterling Department Store was one of our own divisions. Same way with Safeway that was one of our own divisions. Not because we particularly wanted to be retailers it's not ... we weren't very good at it. And so ...but because it's so difficult to get an anchor store, that one store, Walmart for example; virtually every year I'll go to a convention called International Council of (undecipherable). It deals with all the major department stores and franchises, franchises or mall owners, brokers, etc., and I talk to these large department store chains like Walmart, Target, DMX, virtually everybody and obviously my job is to sell them on Guam and specifically our developments. And so like I said that's an extensive process. Back

in the 80s the feeling was why should I open a store all the way in Guam when there are markets in the U.S. mainland that we have not even gone into yet. Things have changed now obviously, Guam is on the radar because of the success that national retailers have achieved on Guam. Macy's is now expanding at the Micronesia Mall and you can see the construction. That's a 45,000 square foot addition and one hundred percent of it will be going to Macy's. When completed and when they open in about June of this year, they'll be leasing a 200,000 square feet from Micronesia Mall. When the Mall first opened in 1988, the entire Mall was only 300,000 and that's with all the common area. So, I think Once the retailers come to Guam and realize it should not be judged just by the population rather than the population there's obviously sales to be made from the tourists. Penny's for example they won't go into any market that they can't open two stores. Obviously the anchor store is key to a shopping center. You can't open up with just a food court. The plan is to ... at least if the outside is done we've taken something that's an eyesore, maybe a potential hazard to residents, you put your utilities in there, parking lot lighting, you've got the landscaping, it looks like to could be open and hopefully it will be easier to market that to a potential anchor in the States.

<u>Commissioner Bathan</u> Mr. Schrage, your explanation talks about the commercial center part of the project. But the original application that was approved is for activity for a multi-family resort and commercial development which consists of 396 multi-family dwellings or condominiums and accessory uses and the commercial area. We are interested not only to know the activities on the commercial area, but also on the multi-family dwellings that was originally approved and the update that you have here only talks about the commercial area. We want to know what's your plan on the approved development?

Phillip Schrage as far as the towers in the back are concerned obviously the whole project was originally designed by the previous owner to have a retail component and the tower and condominium component What has been approved by the owner at this time let's do the retail component and make that successful and get an anchor store in there and get that open and running before there would be any additional towers. So, anyway that's our plan is to do the retail, the Tumon Bay Mall, get an anchor store in there. Make that viable because what you don't want is two towers and a defunct project in front of the two towers. That would not be good. So obviously the project is in the front and the most visible would be the Tumon Bay Mall and you would want that to be successful before you proceed on with any other condominium project.

Commissioner Cruz based on what we just presented my understanding is that you're going to do this project in phases (Mr. Schrage responds "correct."). They're going to complete first your utilities and then you're going to come to your commercial and evidently if things work out then you're going to come to the towers. And I understand that the towers is not part of your ... the new owners of the proposed development you got stuck with them so to speak. The reason why I'm asking you on working on phases maybe you advise us in writing, this Commission in writing, what is that you guys are willing to do because then maybe working on your bond, if the Commissioners are willing to, is maybe we can work your bond into phases. But, subject to the condition that if we are doing this and next week you got an anchor store that you just don't go

straight in and do your anchor store because we've been waiting for that to come to this Commission just to let you know the phase on the commercial side we are now in the process of rejuvenating it making it happen.

Phillip Schrage that is correct, absolutely.

<u>Vice Chairman Cruz</u> I as a Commissioner would like to say come back and tell me what it is. We want this project to work; we want this project to succeed. Because if you succeed the island succeed (sic).

Phillip Schrage yeah, absolutely.

Chairman Arroyo I think for the purposes of the TDP and we're talking about the commercial space; you don't actually have to be operational, just as long as the facility is completed and then building out to the needs of your anchor store that can come later. We just need to make sure that that phase of the building is done. The problem though is when the modified or the amended TDP was submitted it just amended some parking issues, I think a bus shelter and something else and it was committed to continuing on with the rest of the plan which included the residential units. If you're saying now that you're not really looking at doing that at anytime in the near future then you also need to come back to us and amend that TDP to let us know that we'll do this later; and you're welcome to come back once the time is right to add those two towers in well we'll be happy to entertain that request. But we do need to amend the plan as it is right now to match the vision that you have.

Phillip Schrage that makes a hundred percent sense.

<u>Fred Yamon</u> by the way Commissioner, both of us are actually new on this project. We could be just request kindly those updates could be done by letter, and if there's significant changes on the development then we will come in to present it.

Phillip Schrage no, we'll come in whenever you want.

<u>Vice Chairman Cruz</u> we want you guys to succeed with this project but you gotta let us know, you just have to let us know because you don't let us know then we don't know then here we are calling you in because the NOA expired and assume that the performance bond has been approved you don't require which is done it's been black and white. If you come in phases maybe this phase will require this amount of based on your contract this amount of performance bond plus ten percent or whatever. Then when you are ready to (inaudible) rather than making you take a gigantic

<u>Commissioner Bathan</u> not only that there are a lot of conditions on the NOA that is based on the original tentative development which includes the towers, you might be or you're going to be compelled to comply with all those NOA even though you're only doing the commercial because it is on the NOA.

Phillip Schrage the strange thing is (a little bit of history). There was supposed to be a hotel at the Micronesia Mall; basically in the area where Macy's expansion is now. We had the construction plans and everything all done and approved there was going to be a 25-storey hotel there. At the top of the hotel there would have been a revolving restaurant and you can imagine the view and the name of the hotel was the Grandview Hotel. Even though the drawings were all done and everything was approved, we ended up buying the Tropicana Hotel. So, it didn't make sense to have a hotel at the Mall which had no beach when you already own one in Tumon on the beach. So, even though we had the plans to do a hotel at the mall there is no hotel at the mall.

<u>Chairman Arroyo</u> the 270 days that you said you needed to complete the Phase I from August 2015 (I think) that's like May of this year. Is that still a realistic projection?

<u>Fred Yamon</u> there are some delays that we are having at this time with construction. There were (undecipherable) some encroachment, loose soil in one area ... and I think that's giving us some headache.

Chairman Arroyo so do you think it's going to take longer than the May ----

Fred Yamon I would say that, I would say that Chairman.

<u>Michael Borja</u> what's encroaching? Who's encroaching? You are encroaching or someone's property?

Fred Yamon that's what they said. We are encroaching their property.

Phillip Schrage one of them, the site map shows the boundary line and we paid three different surveyors showing ... it wasn't that big a difference, a few feet or something like that. Even that the boundary line on your neighbor's drawing might not be the same on your drawing so. We had to meet with our neighbors and explain to them that We don't want to say that their people said a mistake but you had to point out the fact that the boundary line is here is really a foot or two over here and not exactly where they thought it was. So, those kinds of issues have come up.

Fred Yamon three property owners that actually approached us.

<u>Vice Chairman Cruz</u> what is your anticipated completion date?

Commissioner Bathan for Phase I ---

Fred Yamon for Phase I maybe about probably two to three months extension.

Phillip Schrage before the end of the year.

Fred Yamon yeah I would say end of the year we'll probably be done.

Chairman Arroyo when was the last time you guys were able to take a look at the ----

Marvin Aguilar I was personally up there sometime before the holidays, and found that there were some site preparation work or site repair work being done. Particularly on the northern boundary side where they are preparing a ... cutting out to prepare a ... to set in a retaining wall system and then they were working on the front of the property facing northwest where they were putting a retaining system with an apron (I think) to prevent any loose soil to the adjoining property.

<u>Fred Yamon</u> yes, we get some loose soil on that property boundary at the Nikko Rent-a-Car, so the design is to be revised. Then the ponding basin post-location we encountered loose soil and our Civil Engineer is relocating that at this time.

Michael Borja relocating the ponding basin?

Fred Yamon yes nearby. It's not too far from the present location.

<u>Phillip Schrage</u> it will be moved to the farthest back on the property near the cliff line we don't it up front where your parking is. Before it was in the left rear now it's going to be moved to the back

<u>Chairman Arrovo</u> is there work going on the site every day?

Fred Yamon yes, yes.

Marvin Aguilar I went by yesterday as well, but I couldn't get in. There's security there.

Phillip Schrage yeah, we have 24 hour security there.

Chairman Arroyo Marvin, maybe you can schedule a time to take a look/see.

<u>Commissioner Oh</u> quick question. We know that you guys had a temporary power right. Have you guys ... I'm assuming does this project include the scope of permanent power?

Fred Yamon yes it does. We applied for power actually right now with GPA.

Commissioner Oh which area is this going to be connected to? Main San Vitores or

Fred Yamon yeah, main San Vitores.

<u>Chairman Arroyo</u> any more questions? (None noted) Okay, I think where we're at right now is we need to address the expired NOA. We need for you to come back to us with more concrete

plans, your development plan down there and you're saying that you should be done with Phase I by, before the end of the year. [Mr. Yamon responds "yes."] Your TDP doesn't really expired until sometime 2017, but if we amend it based on your outlook today then that starts another four-year time clock. So, it gives you more time to finish the project. How soon do you think you can come back to us with an amended to the approved TDP?

Fred Yamon could we ... give a grace period for maybe two months from now?

<u>Chairman Arroyo</u> that's fine. The other thing is we need to resolve the performance bond issue, and how soon can we do that?

Marvin Aquilar I think the issue here is that all these requirements are based on what they are proposing to put up there and what they're proposed to construct, upgrade or whatever the case maybe. And what was provided in their report was pretty much clean and prepare site preparation. That is sort of like a preliminary element of the development plan itself and more important is what are you going to have at the end of the day. What is going to be there...constructed....what are you going to use that building for after you're about ready to go for that occupancy permit, and that's where the effects of the NOA comes in. And so when it comes to determining how much this 110 percent bond is going to be, it really depends upon what they are planning to use the building for. So, we're not asking ... I don't think the Commission asking you to project because you're still trying to find your anchor; but, what would be the cost of the infrastructure at this point that's going to support this square footage of property or building. I think that's what they want and whether you can provide that that's when the number can be identified.

<u>Phillip Schrage</u> well, the use of the building is Tumon Bay Mall. Correct me if I'm wrong, but we're doing the civil work now which would involve all of the utilities necessary to operate a retail shopping center.

<u>Fred Yamon</u> yes we do, but the problem we have right now the infrastructure might be there in place but if we don't have any anchor we will not be using the infrastructure itself.

<u>Vice Chairman Cruz</u> yeah but you're going to basically go in like you guys mentioned you are go in and finish this phase of the project. You're going to put up lights so it doesn't look like an abandoned place and everything. So, I think that's what we want to know from you what are you doing on this stage.

<u>Phillip Schrage</u> actually even Phase I doesn't involve an emergency generator; it doesn't involve electric panels we just have temporary power out there. Even Phase I doesn't have all that detail. Am I correct?

<u>Fred Yamon</u> yes, and we've been actually asked or required by GWA to have a development fee which we did, we already paid the development fee connection with the water line.

Marvin Aguilar the systems development charge is different. Bonding ensures that you ...

<u>Richard Sana</u> the condition ... based on your original NOA the condition of the 110 percent performance bond was only to cover the infrastructure right. Are you saying now that for every phase other than the infrastructure we have to put up a performance bond?

Marvin Aguilar no.

Chairman Arroyo Richard, refer to 18GAR, 3315.

[Discussion on the performance bond continues amongst the Commissioners.]

Marvin Aguilar again, Phase I appears to be like a site preparation; repair, rejuvenate

Phillip Schrage yeah, there's no interior work ---

Vice Chairman Cruz no, no I understand.

<u>Marvin Aguilar</u> I think Phase I, my understanding and correct me if I'm wrong, is a response the Commission's initial inquiry when it was discovered nothing was happening prior to your purchase and prior to Ino's involvement in this project. That carried over to this project and they made it a priority (if I'm not mistaken).

<u>Richard Sana</u> if you look at the this part here describes the activities that the contractor has agreed to do that's ongoing now. And as you can see ... inclusive and there's also parts that are exclusive in the work that is being done.

Commissioner Oh I guess for you guys maybe to go back to your consultants and talk to your engineers. First I think what you guys need to do is ... this is initially if you have an idea as to how you want to amend the TDP depending on what is exactly is going to be done for Phase I. At that point you'll have a better idea as to the actual scope of work to complete Phase I. Then maybe you can go back to your engineers and determine that scope of work and find out which aspects is connected to the actual infrastructure. Based on that you guys should be able to come with some type of figure. I think that's what we are looking at.

<u>Phillip Schrage</u> based on our first construction contract with BME includes infrastructure and also includes landscaping and parking lot. We had to take that out and just narrow that down to whatever the infrastructure part of that construction contract is. So, to grab a number, let's say if the infrastructure was a million do we have to get a performance bond for a hundred and ten million?

Frank Taitano it would be one million, four hundred ---

<u>Commissioner Bathan</u> actually if they have already performed a portion of it, probably we can consider the remaining work that needs to be done. It's a performance and payment bond; you already performed.

Marvin Aguilar the objective of the bond is make sure it's completed.

Vice Chairman Cruz yeah but we're basing it on that contract.

<u>Commissioner Bathan</u> yes, but it doesn't have any detail on what is infrastructure and what is not infrastructure.

Commissioner Oh at the same time I don't know if this is going to cover all of your Phase I.

Phillip Schrage I think what Fred was alluding to earlier was that based on (and I think I read it somewhere as well) based on Mr. Lucio Tan's past performance on Guam in terms of finishing projects that he has started he has an exemplary record he doesn't purchase projects then run of money. We may have to stop, make adjustments for whatever reason because of the neighbor or something like that, but Mr. Tan obviously has a stellar record going back forty five, fifty years going to Tommy's Bakery which today is American Bakery in terms of (you know)...the Guam Beachfront Residents which was the Tropicana. We changed that and refurbished that within two years. Micronesia Mall started out at 300,000 square feet within a two year period it was 700,000 square feet. We were building at a time when economy on Guam was bad and people thought we were crazy to spend money; it was during a recessionary period when Mr. Tan committed to doubling the size of the Mall, and he did within two years. So we've ... his record in terms of not finishing projects I don't think anybody can ... things that ... obviously he is committed to do. And I think that's what Fred was mentioning before that there was a mention of a waiver based on Mr. Tan's past performance.

<u>Chairman Arrovo</u> I honestly don't know if we have the authority to waive it. It's specifically says a performance bond shall be required for any development. I don't know if this Commission has the authority to waive the bond.

Phillip Schrage well, I just want to say that Fred didn't make it up or

Richard Sana and it's not reflected on the later NOA, so I guess it's

<u>Chairman Arroyo</u> let me just ask our Legal Counsel. Kristan, do you have any comments on that at all, our ability to waive?

Kristan Finney (Legal Counsel) I don't see ... I'm looking at the regulation here and I don't see any discretion.

Chairman Arroyo okay. So why don't we do this. Within 60-days come back to us with your amended TDP, and also come back to us and during that time, please work with Frank and

Marvin on arriving at a number to complete the project that we can base the performance bond on. Anything else?

Marvin Aguilar I think a lot of the confusion that's appeared ... there have been a lot of factors involved; changing of leadership, changing of key individuals on both sides of this project which kind of confused the process. And I think it's important that the developer, the new owners of this project has a good understanding of what was originally approved and how they wish to change to it and articulate that delta between what is original to what you want to achieve and articulate it over to the Guam Land Use Commission.

Chairman Arroyo any other questions?

Commissioner Oh just a comment. I really take, as we mentioned early ... we stated again, yes we are in full support of this project. It's just that there's certain items that we need to be ironed out right now at this point. We hope that you guys come back to us within 60-days with a definite plan, and then at that point I think we could determine appropriate action from there. Our intentions are not to get in your way of doing any of the things that you guys are trying to do. I think you guys are doing a good job. It's just that there were certain initial conditions that were in place and we do need to abide by those. And we also ... another thing is concerning the six month updating I think the original Notice of Action does require that you do give us an update every six months, and it's not so that we could bring you guys here to hassle you guys in anyway. It's also to ensure that this project just gets completed on time considering the history it's had with the previous owners.

<u>Michael Boria</u> well you know there's also requirements for horizontal property regime where they have an unsold property and they're in here every year explaining where they are at in the process. It's all just a requirement that has to be done and it's the requirement of the law.

[Chairman Arroyo calls for a recess at 3:00 p.m. Commission reconvenes at 3:15 p.m.]

Chairman Arroyo so we are back in session. Any other questions or comments?

<u>Fred Yamon</u> Mr. Chairman, by the way we have a performance bond with the contractor and it's a 100 percent bond. Will that apply

Chairman Arroyo the bond is to be provided to the Department of Land Management.

Fred Yamon will that be transferable then?

Frank Taitano no it's not. That's a different type of bond.

<u>Chairman Arroyo</u> any other questions or comments? [None noted] If there are no questions or comments, I am ready to entertain a motion.

Commissioner Bathan I make a motion to approve the extension of the Notice of Action with a new expiration date of December 31, 2016. And in addition, 60-days from today, the applicant has to come back and submit an amended Tentative Development Plan and that they will work with the Chief Planner to arrive at the amount of the amended tentative development plan that will be the basis for the 110 percent performance and payment bond computation that is required for this application. In addition, all the conditions of the original NOA remains unchanged as of this time until the applicant submits the amended TDP.

<u>Chairman Arroyo</u> that includes the

<u>Commissioner Bathan</u> that includes the six month status report that is required on the Notice of Action dated March 29, 2013.

<u>Chairman Arroyo</u> okay, so we have a motion by Commissioner Bathan. Do I have a second?

Vice Chairman Cruz I second.

Chairman Arroyo there is a second by the Vice Chair; any discussion?

<u>Commissioner Bathan</u> no discussion. I think we understand that we are all new to this project the current developer and the Commission and we also consider they've had a temporary suspension that was granted by us and they also had a ... when they purchased the property they couldn't do anything for a year. So, I think we have to consider that and support them on the completion of this project.

<u>Chairman Arroyo</u> I agree. Any other comments? [None] All in favor of the motion say "aye" [Chairman Arroyo, Vice Chair Cruz, Commissioners Bathan and Oh], all opposed say "nay."

[Motion as stated passed unanimously; 4 ayes, 0 nay]

<u>Chairman Arroyo</u> we'll see you guys back in 60-days and then we'll take it ... as Commission Bathan mentioned that as it is right now with the (inaudible/excessive noise) there was probably a bunch of conditions that you have to adhere to. We can take care of that when you come back and you'll say well we're not going to do that we're just going to do this so we can revise the conditions. Thank you for being here.

So, we have any other business to discuss?

Marvin Aquilar we received a letter today from Benson Au-Yeung this morning. This letter is dated January 13, 2016 as provided by Mr. Benson Au-Yeung. He is the President and owner of the proposed Cube Inc., and if you recall he's referencing Application No. 2015-20 regarding a sign variance for height/variance to construct a 25-foot high canvas billboard sign on a 20x20 portion on Lot 5067-4 in a commercial zone. And if you recall ... he provides this letter basically

anticipating some kind of response from the Guam Land Use Commission as his application was entertained by the Commission about approximately 2 months ago. And so he would like to go before the Guam Land Use Commission to discuss what his options are I guess and basically would like to go before the Commission to have his application entertained again.

If you recall, we did bring up some issues with his project with respect to the type of system he was using, and how it differed with the general LED signs which up to this point the Commission has entertained them as public service announcement structures. Sort of a loop hole and the big question was whether this system that he provides which is completely static and when I say static it's a metal structure, cube structure made out of metal and he's tethering a 20x20 sign billboards on it. He would like to try to come before the Guam Land Use Commission and is requesting some information with respect to an AG's opinion that we were supposed to have submitted to the AG for their interpretation of this. For the record, since hearing that application we have not submitted a request to the AG's Office and have opted to perhaps prepare some type of paper or request consideration of this issue of non-premise sign through other processes through either the Executive or legislative authority.

That being said, he is requesting to go before the Commission at the next available hearing.

Chairman Arroyo here's our dilemma with that. We had talked at that meeting that at your first glance of the statutes we didn't see any wiggle room for ourselves there. But at the same time precedence has been set and we had approved two applications for digital signs based on (I guess) the ability for the owners of these signs to almost immediately post PSAs which the Commission felt was a benefit to the community. In this situation, he's got canvas signs and so he doesn't have the ability to immediately post PSAs. It's going to take him sometime to do that. But the other issue is that, and we do have another application waiting in the wings for another digital sign to be put somewhere in Mangilao. At some point in time I think we're going to be questioned on our authority to approve these sort of things and I don't know especially if our legal representative that at her first glance we don't have a foot to stand on and I don't know how we're going to defend ourselves. And we've also discussed (or was it with your Marvin) making some changes to the sign laws.

Michael Borja I was called by the Chairman of Guam Visitors Bureau to try and sit down sometime after the holidays, so I am expecting a call anytime now to discuss the signage law as it pertains to not only to the hotel area, but maybe even the entire island. But you know the hotels is a different story, and he too has transferred a sign that he had sitting by itself and placed the unit onto the side of his building and was promptly told by someone to turn it off. So, he's complied and he doesn't want to be looking like he's butting heads with anybody and so he's turned his LED sign off.

Chairman Arroyo who told him to turn it off?

Michael Borja I don't know.

<u>Frank Taitano</u> the story behind that is that's the sign that was approved that is on the Reef Hotel; corner lot sign, and they took it down and it was installed on his property...Sandcastle [Mr. Borja comments "on the wall of Sandcastle."] That was done without the appropriate permits so Public Works issued a notice of violation.

Chairman Arroyo I see. It had nothing to do with the sign itself it was just

<u>Frank Taitano</u> they didn't get an approval to install it but there was a permit to demolish it from the Reef side, but there's no permit to install it and that was the violation.

Commissioner Oh I guess I don't know everyone agrees, but at the sametime the sign law as it is is pretty outdated. It is outdated in my opinion and I know there are certain ways to go about changing the law. But also at the sametime I would like to ask the Assistant AG's opinion on this. Does it state any, are there any conditions within the law that states that certain signs like this there's a way to put up certain types of public service announcements? Is there a mention about that?

Vice Chairman Cruz you know the issued public service announcements I guess because they've got signs and another one coming up they decided to put their signs using the most modern technology there is. But if you drive and you go around the Paseo Loop there's always a public service announcement there. Whether it's for Red Cross or ... so the idea of what type of public announcement that we're going to say, I mean, this guy is going to be able to put any information regarding upcoming storm. You can't because it's not possible they don't have ... their system does not ... that it would allow other people to come up. The Mayor's Council or the Mayor Dededo might come up the municipality of Dededo is having this, inviting everybody so...I know there's nothing in the law what time. If you go back the law also says they don't allow flashing. So type of ... so what do you follow. To me if he's going to put that up and he thinks he can put it up and make it work then it's his dime.

<u>Marvin Aguilar</u> on top of that the concept of public service announcements it's really not a sign per say, it's really a use. It's a structural element involved and there's a land use element involvement. The sign kind of gets caught in it only because it's something you see and it's being advertised. But really it should be focusing on the two which is the use and the structure.

Kristan Finney that's covered though in the sign regulation. It says you can have a sign that can only be so big that's says the name of the business or whatever. It's pretty specific and I just kind of also want to point out you guys are talking about it being so outdated, it was last revised in October of 2014. So, there's obviously some intent ... it seems the way to allow these kinds of advertising signs around the island is to change the law. So, you'd have to go to the Legislature; I don't think there's any I just don't see anyway around it. It looks like the intent here is to limit exactly this kind of thing that you guys are considering. From what I see here it doesn't look like it's just some sort of not having any concept of what kinds of advertising can be available. It seems intended to restrict them.

<u>Chairman Arroyo</u> so how do we handle, what you're telling us now with what we've done in the past.

Kristan Finney well I'm not familiar, I mean I hear what you guys are saying, but I'm not personally familiar with what you did or what you ... or how that happened, at the meetings or what advise you had. I don't know any of that.

<u>Chairman Arroyo</u> I guess the thing is we've already set precedence. We've already approved what apparently should not have been approved.

Kristan Finney and I'm not saying ... I don't know that it should have not been approved because again, I am not familiar with the particulars of that and maybe if you could direct me to the Minutes of the meetings where these things were approved and I can take a look at that, what kind of discussion was there and I could look at those ... to kind of maybe give me more information than what I have. All I have in front of me right now is just what it says here in the statute.

<u>Frank Taitano</u> if noticed that whenever the Commission, whenever a proposed use or a proposed structure, anything that is being proposed that is going to deviate from the minimal requirements or to be allowed to exist where it's not permitted, previous Commissions has always used the variance application. Now the question is (to me) is that an appropriate vehicle to accommodate the intent which is to allow a use or a structure to exist.

[Lengthy discussion ensues on signs and variance applications. Mr. Aguilar states that the law is not outdated, but it just does not provide for the use of certain technology of advancement. He adds that likewise with cellular towers which were never thought of back in the day and through executive order the government recognized the benefit of cellular technology and was addressed through a height variance; however, the law was not changed just that it was done by an executive order. There was discussion on the definition of signs to which Ms. Finney stated what the law says on the various and types of signs allowed and added that the regulation and the law is deliberately trying to include anything possible; premise and off premise locations; size of signs; exterior signs.]

Chairman Arroyo the law precludes anything.

Commissioner Bathan signs are not allowed.

Chairman Arroyo the problem is the application is for a sign.

Marvin Aquilar getting back to cellular phones, towers and their industry; when the executive order came out (it's 96-26), they basically stated that the reason why they needed to aggress this cellular technology was it was because it was important to ... for emergency notification purposes in getting a hold of emergency responders. It was identifying a new technology,

obvious new technology and obvious benefit to the public. Likewise, that's the analogy...well, I mean it's likewise with these off-site signs they can perform that type or service as well. If you could stay within the premise of the law, then

<u>Chairman Arroyo</u> but the general purpose of those signs is for advertising. The general purpose of those cellular towers is not for advertising. I can see your argument, but what we're saying is there's a statute that says you cannot put up a sign structure for advertising. It specifically says that.

<u>Commissioner Oh</u> in my opinion I thought that that was the intention of having a variance. There's certain law in place and variances do allow for certain activities to occur. That's why there are certain cases when we do need to allow the variance for the setbacks or to the height.

<u>Chairman Arroyo</u> I can understand that. I mean that's a structure that has nothing to do with advertising. Where I'm struggling with is we know the structure is for advertising. If they didn't tell us it was for advertising then we can always claim ignorance (right), but the application they are asking for approval of a structure to put up a sign.

<u>Michael Boria</u> that's what this guy is doing right his application is for a sign everybody else was application to build a structure.

<u>Chairman Arroyo</u> that's where I'm stuck with. How can we say okay we approved it based on a variance when the application staring us right in the face it's saying a sign.

[Lengthy discussion ensues on Mr. Au-Yeung's request for a sign variance.]

<u>Michael Borja</u> I am going to try and tackle this sign thing as some ... it's not going to be an easy bit of legislation, but I will be very happy to sit down with whoever might be interested. Mark Baldyga wants to definitely sit to try and figure out and set up for the hotel zone. Where do we go from here?

Chairman Arroyo that's the question.

<u>Vice Chairman Cruz</u> tell him to change his application and take out the word sign and just say put up a cube. The law says you cannot build anything on your property. When you're leasing the property

Marvin Aguilar he is leasing a portion of the property. Otherwise, I do have a paper I am writing and I am forwarding it to the Executive Secretary for his review and his decision to disperse it before the Commission and it's just my opinion on how you can apply off premise signs. The AG has stated time and time again that the ... with respect to the authority of the Commission and particularly if you recall when they were considering the LC limited commercial zone and that the Commission should stay within or cannot go beyond its authority. I have a tendency to differ with that opinion only because this is the ultimate body for determining land

use issues. If you can, and in their respect, I say that by saying if you can change the entire island through its land use master plan and being the authority to approve that I think the Commission can actually proceed to look at lesser elements of the overall master plan to include signs in its authority.

Kristan Finney the Commission can only ... only has the power that the Legislature gives it.

Michael Borja all the more reason why I am looking at trying to change the law and work towards something that is more comprehensive; update with what really maybe the wants and needs of the island. I can understand what the original intent was many years ago they didn't want it to look like a billboard city of places people have seen in different parts of the country and world, but did we succeed? I think we're almost there, but if you can imagine what the revenue of those signs bring and if you've seen some of the billboards that are being used they are pretty high tech. So, I'll be tackling that in earnest here this year. It's not going to be an overnight project I don't think.

[Mr. Borja further commented that depending on the timing when he can get this legislation done and get it introduced to the Legislature being an election year timing will be there; he also stated that if he could not complete the legislation before the summer, he will probably file it away until January.]

<u>Chairman Arroyo</u> here's the thing. We've got this and if it weren't because of Cris not getting the advertisement paid on time we would have been hearing the Cherry's application today as well. And so that is probably going to before us this month; that is the sign in front of Horse and Cow, they're coming to us for another sign and the renewal of this sign in Tamuning.

We are coming to hit on this thing much faster than we anticipated and right now we're kind of in a bind.

[Brief discussion on other applications coming before the Commission for LED signs]

<u>Commissioner Oh</u> what can we do with him? Can we tell him that we're not going to schedule him?

<u>Michael Boria</u> well you know the thing is (! mean) if he wants to push to shove, if he gets rejected, it's tabled for a year and you can't bring it back up again.

<u>Vice Chair Cruz</u> either way if we entertain him and we say he's got legal for us. Then what will the court say, the entire sign is outdated and everything.

Michael Boria they're not going to change the law they're just going to say get rid of it. Either it's okay or it's not okay, and anyone that's existing you have "x" number days before you gotta remove it.

Kristan Finney or it might give some guidance from the court. It might not be a bad thing...it's not always the worse thing to have decide it.

<u>Frank Taitano</u> once the Commission acts on it and disapproves it, then they have 15-days to file an appeal.

[Discussion ensues ---]

<u>Michael Boria</u> on the cell phone towers real quick there's an executive order that permits this thing. Now we have coming before you real soon is a height variance for a tower in Barrigada. Well I thought well where's Docomo putting another tower up and they said they already have it. So this is the problem. They can erect the tower because the executive order says you do what you want and then come back afterwards and ask for permission. In the meantime, the Mayor is kind of like what the [hell] just happened here.

Vice Chairman Cruz the government is the biggest culprit; they put towers all over the island.

<u>Michael Borja</u> I am just thinking moving forward I'd like to submit a recommendation to the Governor to rescind ... this executive order was because of an infant industry, but I don't think we have an infant communication, wireless communications industry anymore. We have good saturation throughout the island and all they're doing now is upgrading their tower systems for greater coverage because they need to. And if they want to do that they should get the proper clearance before the erect the towers.

<u>Vice Chairman Cruz</u> we've already done a precedence on tower. Remember we gave GPA their tower their windmill.

<u>Michael Borja</u> but they came here first. The executive order allows telecommunication companies to erect first ask later.

Marvin Aguilar that is specific to cellular towers.

<u>Michael Borja</u> now you get the community going what the [hell] happened here the tower just got put up. So what are we supposed to say about that now? Okay, you got your variance or no take it down.

Commissioner Bathan do they get a permit for that?

Michael Borja they get a building permit, but we can't stop it because of ... without a height variance because they are using the executive order to proceed forward. It might be time...I am going to recommend to the Governor that we need to step back from that executive order now. The island has reached the maturity level for its telecommunications system. This was designed so that they didn't have ... twenty years when the industry was very very light they needed to

get coverage especially for emergency purposes. It's at the tri-intersection a 100-feet antenna there and it's pretty tall.

[Discussion ensues on land use laws such as windmills, solar panels, and other upcoming new technology.]

<u>Chairman Arroyo</u> I think Marvin, I guess, in response to this letter I mean if he wants to come before the Commission he can. I don't know if we're going to be prepared to provide a response to him, an approval. Somebody's got to make a motion and then we've got to vote on it.

<u>Michael Borja</u> well, I think you should advise him beforewhat could possible happen. That if you deny it he's going to be he can't reintroduce it for a whole year.

Chairman Arroyo we told him that the last time when he was here. That's why we said it's probably better for us to continue it, give us some time to work with Kristan on getting some kind of position statement or something. Marvin, you said you were going to submit something to Mike; let's take a look at that as well. But, if he wants to come back, I mean that's his prerogative. I don't know if If you would make a motion or you Vic would make a motion or Tricee would make a motion and you might even be conflictive, I don't know. That's what might happen, but if he wants to roll the dice it's up to him.

<u>Vice Chairman Cruz</u> wouldn't he rather ... let the guy sit idle and everything and respond and say bring it in, let's vote on it, period. That's our obligation. We're not here to tell him how to do it or what the law says, who's right or who's wrong. It's before us we decide it. If you don't ... if you vote against it because of what the law says then say it what law says. You see it floating all over the island you know.

<u>Marvin Aguilar</u> if I may, by going through this process of getting guidance from the Commission and going through that trend of reliance, he's putting the liability on himself.

<u>Vice Chairman Cruz</u> you've got buildings now that are putting LED signs all over the place. What are you going to do?

[Discussion ensues ---]

<u>Chairman Arroyo</u> anyway ... that's what I would probably tell him Marvin. If he wants to come on back and we'll just see where it goes from there.

[Brief discussion on upcoming GLUC scheduled meetings] Nothing further discussed.

VI. Adjournment

Vice Chairman Cruz motions to adjourn today's meeting, seconded by Commissioner Bathan; with all in favor.

The regular meeting of the Guam Land Use Commission for Thursday, January 14, 2016 was adjourned at 4:05 p.m.

Approved by:	Transcribed by:
John Z. Arroyo, Chairman Guam Land Use Commission	M. Cristina Gutierrez, Pro Tem Planning Division, DLM
Date approved: 1/24/16	

GUAM LAND USE COMMISSION

1	
2	To the Method of
3 4	In the Matter of:) APPLICATION No. 2008-003B
5	Guam Land Use Commission)
6) ORDER TO SHOW CAUSE
7	vs)
8)
9	Grandview Development, LLC)
10 11	
12	
13	THE GUAM LAND USE COMMISSION TO:
14	Conduian Davidament IIC
15	Grandview Development, LLC
16	2149 Army Drive
17	Barrigada, Guam 96913
18	
19	YOU ARE HEREBY ORDERED TO APPEAR before the Guam Land
20	Use Commission (GLUC) at its regularly scheduled hearing date of January 14,
21	2016. The hearing will commence at 1:30 p.m. and will be held at the Guam
22	International Trade Center (GITC) Building, 590 S. Marine Corps Drive,
23	Tamuning, Guam, 3 rd Floor Department of Land Management Conference Room.
24	
25	You are ordered to address the following:
26	
27	Order to Show Cause as to the reason or reasons for what the GLUC has
28	determined to be a failure to comply with the Conditions of Approval of the
29	amended Tentative Development Plan for the Grandview Shopping Mall (formerly

	30	Ino Corporation's Tumon Bay Shopping Center), as noted on a Notice of Action
	31	dated March 29, 2013.
	32	
	33	It is expected that a principle or principles of Grandview Development, LLC
	34	attend the hearing and must be prepared to present both:
	35	1. A complete and exact plan of action of intent for the further
	36	development of the Grandview Shopping Mall; and
	37	2. A status report of improvements currently under way at the project site.
	38	
	39	Principle(s) must also provide evidence to the GLUC as to how Grandview
	40	Development, LLC has, to date, complied with all the conditions of the Notice of
	41	Action.
	42	
	43	Grandview Development, LLC must be duly represented for the purpose of
	44	effectuating Commission acceptance of any commitment or proposed action on
	45	part of the LLC. Failure to appear at the prescribed hearing date without
	46	appropriate representation may result in a default judgment against Grandview
	47	Development, LLC as this hearing directly affects the continuation of said project.
	48	
~	49	Date this 2 nd day of December, 2015
	50	
	51	
	52	SO ORDERED BY:
	53	
	54 55	
	56	John Z./Arroyo, Chairman Guam/Land/Use Commission
1	DYA	calaign 10:38 am 12/2/15

Grandview Development, LLC

Application No. 2008-003B **Status Report** to the

RECEIVED pun cq

Guam Use Land Commission



Tumon Bay Mall

Submitted By: FC BENAVENTE, Planners

January 2016

FC Benavente, Planners

Planning, Zoning, Land Development Consulting, Permitting

127 Bejong Street, Barrigada, GU 96913 Tel: 671.687.9865 richardjsana@yahoo.com

January 7, 2016

Mr. Michael Borja
Executive Secretary
Guam Land Use Commission
Department of Land Management
PO Box 2950
Hagatna, Guam 96910

Hafa Adai Mr. Borja:

This is in response to the Guam Land Use Commission's order for Grandview Development LLC to appear on the GLUC's next meeting scheduled for January 14, 2016, to present a complete and exact plan and intention for Tumon Bay Mall and what is currently happening at the project site. The applicant, Grandview Development LLC (Tumon Bay Mall) is pursuing completion of this project as proposed in the Amended Tentative Development Plan approved by the GLUC on March 28, 2013. They have entered into a contractual agreement with BME & Sons Inc. a licensed general contractor to perform civil works on the project site. This Phase I work is currently ongoing and has obtained building permits for the installation of underground power, water, sewer, landscaping of Tumon Bay Road frontage area, marking of parking stalls, and construction of retaining walls (Permit No. B14000468), and for the construction of bus shelters (B15000871). The estimated duration of the project is 270 calendar days from 8/28/2015. Schedules for other phases of the project will be dictated by the anchor store once on board.

Below is a list of supporting documents (attachments) describing past activities leading up to current ongoing construction work and progress in the development of the Tumon Bay Mall.

1.	Letter of Authorization for Representation	11/10/2015
2.	GWA development fee agreement	12/30/2014
3.	Design Upgrades	
	a. Bus Shelter Sheds, refer to updated site plan	
	b. Refer to scope of work and site plan	
4.	Letter - Extension of Building and Grading Permit	5/8/2015
5.	Contract signing	8/24/2015
6.	Building Permit Issuance, Phase 1	8/28/2015
7.	Letter – Extension of Building and Grading Permit	9/16/2015
8.	Building Permit Issuance, Bus Shelter Sheds	11/5/2015

Thank you for your consideration.

Richard J. Sana, Principal

A Duly Authorized Representative

2149 Army Drive, Barrigada, Guam 96913 Tel No (671) 649-2470

P.O. Box CM, Hagatna, Guam 96932 Fax No (671) 646-9116

November 10, 2015

Mr. Michael Borja, Executive Secretary Guam Land Use Commission Department of Land Management PO Box 2950 Hagatna, Guam 96910

Subject:

Letter of Authorization for FC Benavente, Planners re GLUC Case No. 2008-

003B (Tumon Bay Mall)

Dear Mr. Borja,

This is to advise you that Grandview Development, LLC authorizes FC Benavente, Planners, to represent Grandview Development, LLC regarding status report presentations as required in GLUC Notice of Action dated March 29, 2013.

Should you have any questions, please feel free to contact me at 649-2470.

Sincerely,

Philip M. Schrage

SVP – Group Operations and Leasing

Grandview Development, LLC

2149 Army Drive, Dededo, Guam 96929 Tel. (671) 649-2470 P.O. Box CM, Hagatña, Guam 96932 Fax. (671) 649-9116

SIS IZOHY

April 29, 2014

David Camacho, Director Executive Secretary Guam Land Use Commission

Dear Mr. Camacho,

In 2013, Grandview Development LLC requested sealed bids from Guam contractors for the completion of Phase 1 of the Tumon Bay Mall project.

After finally receiving the necessary number of bids, the owners requested that the project be value engineered for reasons of cost savings.

By the fourth quarter of 2013 and in the absence of having a viable anchor tenant floor plan, it was decided that the lowest bidder provide Grandview with a breakdown of all construction costs starting with the costs of civil work. By breaking down the costs by phase we have the flexability to produce the best outcome.

For example, it would not make sense to divide the second level of the project into inline stores/restaurants if one tenant were interested in leasing the entire building, which is still a possibility. We can begin the civil work even without a signed anchor tenant in place.

Thank you for your support.

Best regards,

Phillip M. Schrage \

VP Operations and Leasing

Grandview Development LLC



GUAM WATERWORKS AUTHORITY

"Good Water Always"

578 North Marine Corps Drive Tumon, Guam 96931

Grand View Development 2149 Army Drive San Miguel Bldg., Suite 1 Dededo, Guam 96921

Ref: Tumon Bay Mall Civil Works- Building Permit Conditions of Approval

Gentlemen:

The Building Permit for Tumon Bay Mall Civil Works is hereby conditionally approved with the following agreement.

- a.) The developer/contractor will remove existing pipe connection on fire hydrant located near proposed water point of connection. The existing fire hydrant was used for temporary water supply during construction of the Mall structure.
- b.) The developer/contractor will provide labor and materials for the construction of Proposed Central Tumon Wastewater System Upgrade Phase I based on provided preliminary drawings and specifications. The work limit involve the construction of new 36" sewer line, junction boxes, connection on existing manholes and pump station, demolition of existing manholes and sewer lines and pavement restoration. Work is located along Fujita Road near Fujita Pump Station.

This letter of agreement is signed December 1, 2014, by GWA and the developer/contractor of the Tumon Bay Mall.

BARBARRA CRUZ, P.E. Acting, Chief Engineer

Concurred By:

PHILLIP M. SCHRAGE, President Grandview Development, LLC

sident

2149 Army Drive Dededo, Guam 96913 Tel No (671) 649-2470 P.O. Box CM, Hagatna, GU 96932 Fax No (671) 646-9116

December 30, 2014

Ms. Barbara Cruz, P.E. Acting Chief Engineer Guam Waterworks Authority 578 N Marine Corps Dr Tumon, Guam 96931

Ref: Tumon Bay Mall Civil Works – Building Permit Conditions Approval

Hafa Adai Ms. Cruz,

We are pleased to submit this response to your letter dated December 1, 2014, outlining your conditions of approval for our commencement of civil works constructions at the Tumon Bay Mall.

Regarding GWA Condition (a).

We will comply after completion of the civil works construction on Phase 1.

Regarding GWA Condition (b).

We propose a modification to this condition. We ask this based on the following: 1) that the Tumon Bay Mall is only Phase 1 of a three-phased Master Plan for development of the property, 2) that the System Development Charge (SDC) law was not in effect at the time of the Guam Land Use Commission approval.

We respectfully request that Condition (b.) read as follows:

(b.) "Prior to the issuance of a building permit for either the Phase 2 Condominium Tower I (198 Residential Units) or the Phase 3 Condominium Tower II (198 Residential Units), the developer/contractor will provide labor and materials for the construction of Proposed Central Tumon Wastewater System Upgrade Phase I based on provided preliminary drawings and specifications. The work limit involve the construction of new 36" sewer line, junction boxes, connection on existing manholes and pump station, demolition of existing manholes and sewer lines and pavement restoration. Work is located along Fujita Road near Fujita Pump Station."

(c.) New GWA Condition.

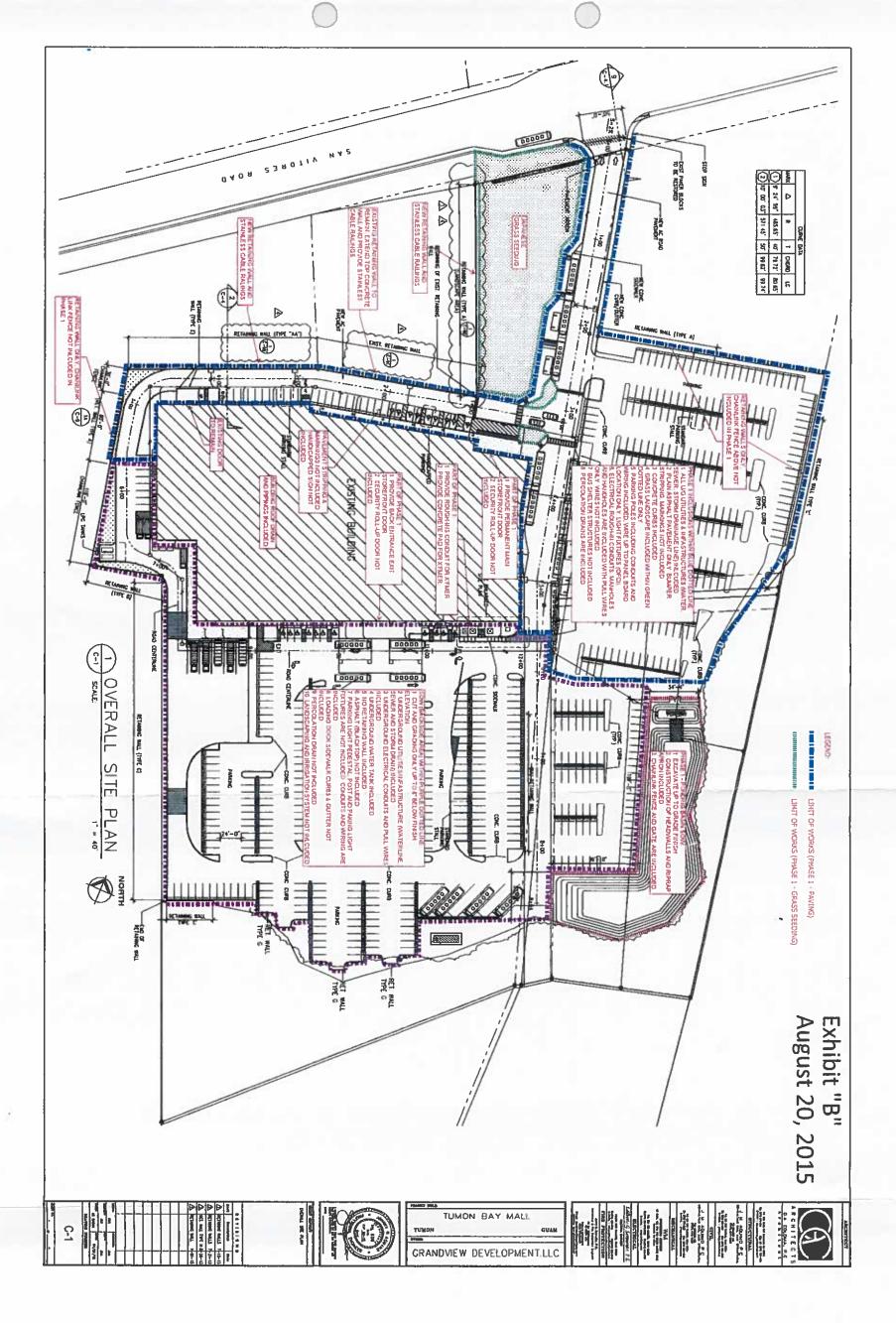
SDC Payment of \$140,020.0, already made by Grandview Development LLC to GWA shall be applied as payment for Phase 1 Tumon Bay Mall.

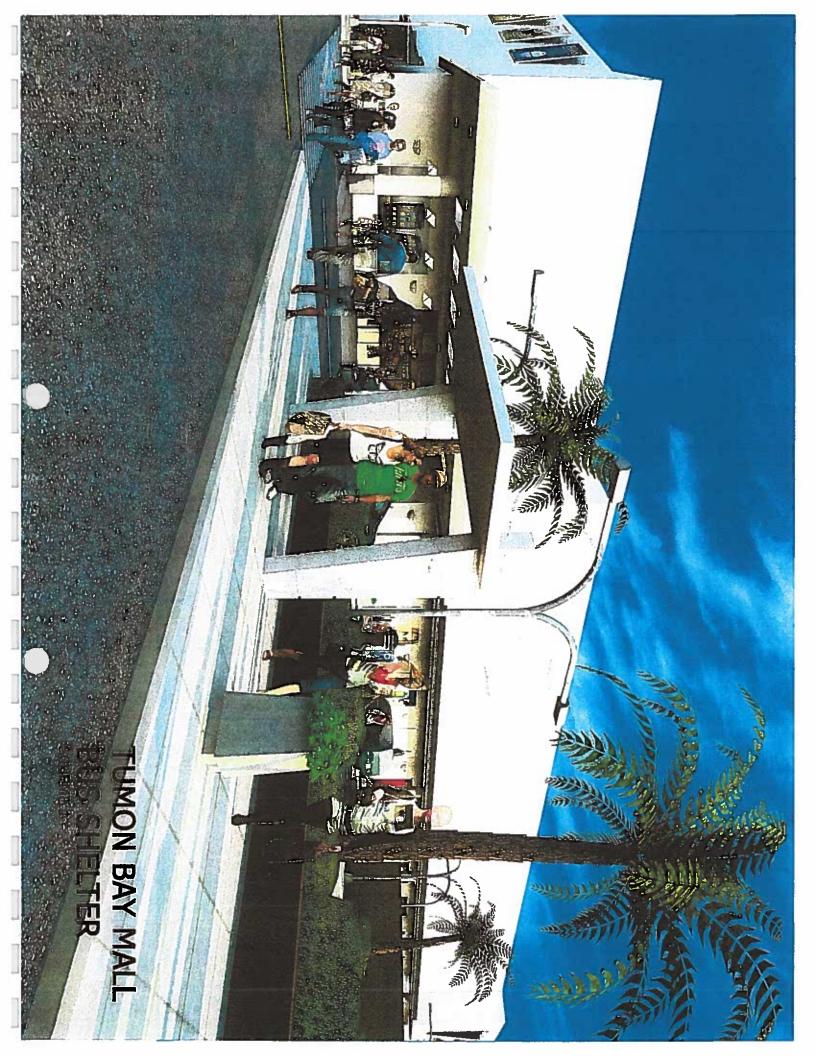
We appreciate your time and effort in considering our civil works building permit application. Please contact me should you need further information.

Si Yu'os Ma'Ase

Phillip M. Schrage

VP Operations and Leasing





2149 Army Drive, Barrigada, Guam 96913 Tel No (671) 649-2470 P.O. Box CM, Hagatna, Guam 963932 Fax No (671) 646-9116

May 8, 2015

Mr. Michael Borja, Executive Secretary Guam Land Use Commission Department of Land Management P.O. Box 2950 Hagatna, Guam 96932

Subject:

Extension of GLUC Approval for Building and Grading Permit. Grandview Development LLC Application No. 2008-003B

Hafa Adai Mr. Borja,

This is to inform the Guam Land Use Commission that Grandview Development LLC Is actively pursuing the development of our Tumon Bay Mall. To date, we have obtained a DPW building permit to install underground power, water and sewer utilities; landscaping of road frontage; parking stalls; perimeter retaining wall (Ref. Building Permit No. B14000468) Cost of improvements = \$3,345,923.

We encountered inadvertent delays in obtaining a building permit due to a necessary dialogue and coordination with Guam Waterworks regarding infrastructure improvements. Therefore, we are requesting the GLUC to further grant us an extension to continue with the construction of the Tumon Bay Mall pursuant to conditions stipulated in the Notice of Action in reference to Application No. 2008-003B.

Sincerely,

Phillip M. Schrage

Senior Vice President

Grandview Development LLC



BME & SONS INC.

GENERAL CONTRACTOR & EQUIPMENT RENTAL

P.O. Box 24402, GMF, Barrigada, GU 96921 * Tel: (671) 632-3338 * 637-5498 * Fax: (671) 632-3334 E-mail: <u>bmesons@quam.net</u>

August 20, 2015

Mr. Fred Yamon AVP-Construction Manager Grandview Development LLC

Reference: Construct Tumon Bay Mail (TBM) - Phase I Civil Works

Dear Mr. Yamon.

We are pleased to submit our revised cost proposal for the construction of Phase I civil works of the proposed Tumon Bay Mall to include all labor, materials (except for OFCI), equipment, transportation and supervision as per scope of works listed below. See attached site plan with limits of scope of work for your reference.

Total Proposed Amount:

US\$ 3,615,000.00

Scopes of Works included but are limited to the following:

- A. Within Blue dotted lines of the attached site plan:
- 1. Grading (cut & fill) up to required finish grade elevation. Surveying services included.
- 2. Construction of required concrete retaining walls except for the installation of chain link fence above retaining wall in the original retaining wall design. Stainless steel cable (guard rail) at right side entrance and front area retaining walls are included.
- 3. Asphalt pavement installation including 8" compacted basecourse included. Parking stripes, concrete car bumper, pavement markings, and handicapped markings are not included.
- Handicapped sign post footing included, sign and post are not included.
- 5. Parking light pole and pedestal including conduit and wirings included. Conduit and wires up to panel board location inside the building. Parking lights are OFCI. Parking light poles (3 each) to be relocated on the other side of the main entrance road.
- 6. Concrete curb & gutter, concrete ramp and concrete side walk as per revised drawing are included
- 7. Landscape within green dotted line shown in the attached site plan only is included.
- 8. Storm drainage pipelines, manholes with covers and catch basins are included.
- 9. Sewer pipelines and manholes with covers are included.
- 10. Water distribution system to include pipe and fittings, fire hydrant, gate valves, tapping sleeve, back flow preventer, air release valve, water meter assembly including concrete box are included except for Owner Furnish water meter.
- 11. Electrical manholes, handholes, underground conduits with pull wire only up to the transformer pad at back side area are included. Wires not included.
- 12. Telephone & Cable TV underground conduits with pullwires, handhole/pullbox are included. Cables not included.
- 13. Percolation drains are included.
- 14. Bus shelter structures and Irrigation system are not included.
- B. Within Green dotted lines of the attached site plan:
- 1. Grading (cut & fill) up to required finish grade elevation. Surveying services included.
- 2. Percolation trench system.
- 3. Construction of concrete retaining wall with stainless steel cable railing are included.
- Landscape with Japanese grass seeding.

Continuation sheet page 2 of 2.

- Irrigation system not included.
- C. Within Red dotted lines of the attached site plan:
- Excavation up to required finish grade elevation of ponding basin.
- 2. Construction of headwalls and riprapping are included.
- 3. Chainlink fence and gate are included.
- D. Within Purple dotted lines of the attached site plan:
- Grading (cut & fill) up to required subgrade grade elevation (below basecourse & asphalt).
- 2. Provide rough-ins conduit for transformer.
- 3. Provide concrete pad for transformer. Installation of transformer not included.
- 4. All Underground utilities/infrastructures for water, sewer and stormdrain are included.
- 5. Telephone & Cable TV underground conduits with pullwires, handhole/pullbox are included. Cables not included
- 6. Concrete retaining walls are not included.
- 7. Parking light foundation, post and parking light fixtures are not included, conduits and wiring are included.
- 8. Asphalt paving, stripping, markings, concrete car bumper, handicapped signages are not included.
- 9. Loading dock, sidewalk, curbs and gutter are not included.
- 10. Underground water tank is included.
- Landscaping and irrigation system are not included.
- E. Shopping Mall Building:
- 1. No Work included except for the supply and installation of Aluminum Storefront Doors & Hardwares shown in the attached site plan and installation of Roof drain system (supply of missing roof drain pipe and fittings, if any, are BME's responsibility). All other remain as is.

Notes:

Respectfully

- 1. The total proposed amount only includes specifically stated in the scope of works stated above, any changes or deviation are subject for additional cost.
- 2. System development charge and Archeological works & services are not included.
- 3. Water & power consumption for construction use shall be responsibility of the contractor.
- 4. Builders Risk Insurance is not included.
- 5. Building Permit Fee will be by the Owner.
- 6. Performance and Payment Bonds including Contractor's Liability Insurance are included.

Thank you and let me know should you have any question. Should you find above proposal acceptable, please affix your signature at the space provide below.

Daniel A. Hernandez	Acknowledge & Accepted by:
BME & Sons, Inc.	
Project Manager	Authorized Signature
Cell: 671-888-5617	Print/Sign/Date



The Hanarable
EDDIE BAZA CALVO
Governor

The Honorable
RAY TENORIO
Lt. Governor



Glenn Leon Guerrero
Director
Felix C. Benavante
Deputy Director

OFFICE OF BUILDING INSPECITON & PERMIT TERRITORY OF GUAM

BUILDING PERMIT

					DATE:	Augus	it 28, 2015	5	PERMIT	NO:	B1	4000468
1	APPLICA	NT:	BME &	SONS	INC.							
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BUILDING PERMIT SHALL EXPIRE IF THE WORK AUTHORIZED IS NOT COMMENCED WITHIN THREE (3) MONTHS OR IS SUSPENDED OR ABANDONED FOR A PERIOD OF THREE (3) MONTHS AFTER WORK HAS BEEN COMMENCED.

2149 Army Drive, Barrigada, Guam 96913 Tel No (671) 649-2470

P.O. Box CM, Hagatna, Guam 963932 Fax No (671) 646-9116

September 16, 2015

Mr. Michael Borja, Executive Secretary Guam Land Use Commission Department of Land Management P.O Box 2950 Hagatna, Guam 96932 MECEIVED
SEP 1 : 2015
Divine Leading Time

RECEIVED

9 22-3015 PLANIVING GATX

Subject:

Extension of GLUC Approval for Building and Grading Permit. Grandview Development LLC Application No. 2008-003B

Hafa Adai Mr. Borja,

Relative to our May 8, 2015 letter, the building permit for Phase 1 of the project was issued on August 28, 2015 and BME & Sons Inc., the general contractor, has commenced their work. Expected completion of Phase 1 is 270 days from August 28, 2015.

Please note that we have decided not to move forward with Tumon Bay Night Market project. If you have any questions you may call me at 635-1107.

Sincerely,

Fred B. Yamon

AVP-Construction Manager Grandview Development LLC

Cc: Phillip M. Schrage-SVP Group Operations & Leasing

Encl: May 8, 2015 Letter

Building Permit B14000468



The Honorable
EDDIE BAZA CALVO
Governor

The Honorable
RAY TENORIO
Lt. Governor



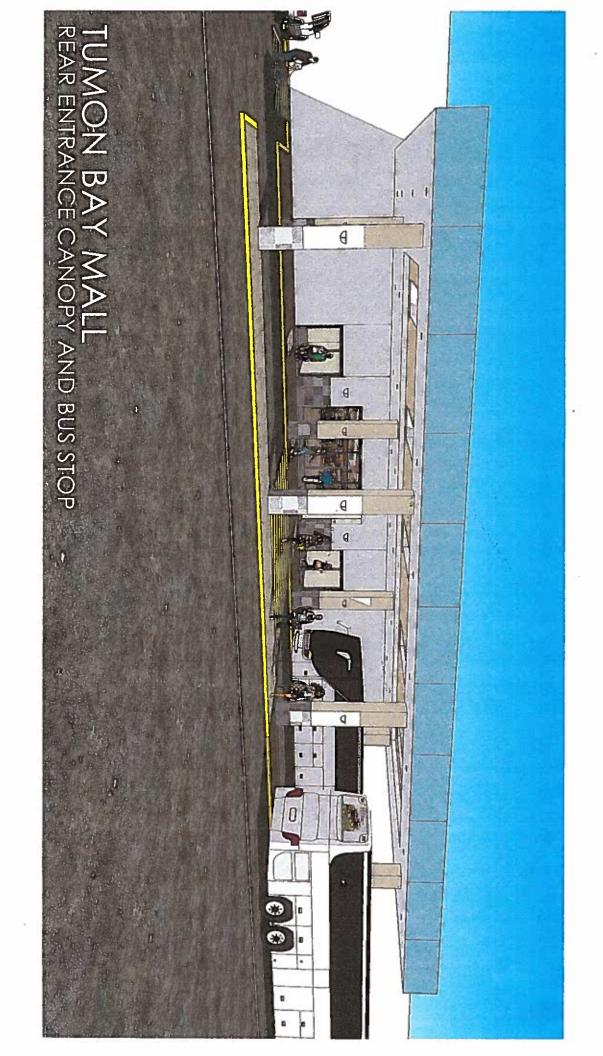
Glenn Leon Guerrero Director Felix C. Benavente Depuis Director

OFFICE OF BUILDING INSPECITON & PERMIT TERRITORY OF GUAM

BUILDING PERMIT

		DATE: _	November 5, 2	015	PERMIT NO:	<u>B1500087</u>
APPLICANT:	BME & SONS	INC				3028
ADDRESS:	TUMON BAY	MALL			ie iow fic. IAO:	3028
PERMIT TO:	NEW	I) STOR	Y PROPOSED	USE:	MISC.	ı) UNITS
LOCATION:	TUMON				IING DISTRICT:	-
TRACT:	LOT: _	L51	131,L5126-3-1,	L5126	2 0 4	BLOCK
BUILDING DI			WIDE. BY			
TYPE:	TV		Mac			NCRETE
REMARKS:	PROPOSED TI	IMON RA	AY MALL BU	S SHEI		1
AREA OR VOLL			\$120,000.00	1.1	PERMIT FEE:	\$1,641.25
OWNER:	GRANDVIEW (CORP.			_	70,000
ADDRESS: S	SAN MIGUEL E BARRIGADA G	BLDG. 21	49 STE. 1			, 1
		- V	BUILDING OFFICE	AL:	- # Way	Ø
				В	Mr. Jaseph Milling Inspection & I	D. Guevara Permit Administrator

BUILDING PERMIT SHALL EXPIRE IF THE WORK AUTHORIZED IS NOT COMMENCED WITHIN THREE (3) MONTHS OR IS SUSPENDED OR ABANDONED FOR A PERIOD OF THREE (3) MONTHS AFTER WORK HAS BEEN COMMENCED.



Jan. 13, 2016

Mr. John Arroyo, Chairman Guam Land Use Commission Department of Land Management P.O. Box 2950, Hagatna Guam 96932

Subject:

To be place on next meeting agenda for application 2015-20 regarding Sign Face and Height Variance Application to construct a 25ft high Canvas Billboard Sign on a 20ft x 20ft portion of Lot 5067-4, within a "C" zone, in the Municipality of Tamuning, Guam.

Hafa Adai Mr. Arroyo and Commissioners,

Happy New Year!

It has been 2 months since my application was put on hold in Nov. 12, 2015 meeting. During this time, I have wait patiently for some response from GLUC. I am still very confused as to the difference between my application and all the applications for sign variance that was approved in the past years that prevents my application to move forward. The only thing I understand during the Nov. 12 meeting, was that if GLUC has the authority to approve sign variance. And an AG opinion was required to make that decision. I understand that the holidays might have delay this process, but now that the GLUC meeting is back in session. I am respectfully asking for the letter from GLUC to the AG or other related documents, and also to put my application back on the agenda at your next meeting.

Si Yu' os Ma Ase'

Benson Au-Yeung
The Cube Inc.

President/Owner

Street Address: 590 S. Marine Corps Drive Suite 733 ITC Building Tamuning, GU 96913

> Mailing Address: P.O. Box 2950 Hagatña, GU 96932

Website: http://dlm.guam.gov

E-mail Address: dlmdir@land.guam.gov

Telephone: 671-649-LAND (5263)

Facsimile: 671-649-5383





DIPÅTTAMENTON MINANEHAN TÅNO' (Department of Land Management) GUBETNAMENTON GUÅHAN (Government of Guam)



MICHAEL J.B. BORJA Director

DAVID V. CAMACHO Deputy Director

EDDIE BAZA CALVO Governor

RAY TENORIO Lieutenant Governor

October 30, 2015

MEMORANDUM

TO: A

Acting Chairman, Guam Land Use Commission

FROM: Guam Chief Planner

SUBJECT: Commission Brief

Compliance to Conditions of Approval of Application No. 2008-003B, an Amended Tentative Development Plan (Lot Nos. 5131NEW, 5131-

1, 5126-3-1NEW, Tumon, Municipality of Tamuning)

As noted on the attached Notice of Action (NOA) the subject development under application 2008-003b was approved with conditions by the Commission on March 28, 2013. The approval allowed for an Amended Tentative Development Plan for the Grandview Shopping Mall (formerly Ino Corporation's Tumon Bay Shopping Center).

Since the last Commission approval, the Division of Planning maintained dialog with representatives of the project, wherein having been reminded of obligatory requirements to the conditions of the Commission approval, particularly referencing an April, 2014 NOA expiration date as referenced under condition "B" and a required 6-month status report to be submitted before the Commission, as referenced under condition "D".

On May 11, 2015 we received a letter from Mr. Phillip Schrage¹ requesting for the GLUC to further grant them an extension to continue with the construction of the Tumon Bay Mall pursuant to the conditions stipulated in the Notice of Action as referenced on Application No. 2008-003B. Through the applicant's representative, we noted the letter as inadequate in addressing the conditions of the Notice of Action.

As dialog continued, on September 16, 2015 Mr. Fred Yamon² submitted a follow-up letter to the May 11, 2015 letter as submitted by Mr. Schrage.

¹ Mr. Phillip Schrage serves as Senior Vice President of Group Operations and Leasing at Goodwin Development Corp., GrandView Development, LLC

² Mr. Fred Yamon serves as Assistant Vice-President and Construction Manager for Grandview Devleopment, LLC.

Commission Brief - Application No. 2008-003B Lot Nos. 5131NEW, 5131-1, 5126-3-1NEW, Tumon **Municipality of Tamuning** October 30, 2015 Page 2 of 2

In response, case planner Mr. Frank Taitano informed Mr. Yamon that Grandview Development of existing shortfalls of compliance and that such shortfall must be addressed before the Commission.

On October 22, 2015 the Commission ordered that Grandview Development be notified to attend the next GLUC hearing scheduled for November 12, 2015 to provide a status report of the Tumon Bay shopping Center and its Notice of Action.

The applicant was informed this order and as well were provided with a copy of the Commission's October 22, 2015 Agenda Disposition for their perusal. The case planner noted representation and presentation to address matters at hand will be afforded to the Commission on the date of hearing.

Marvin Q. Aguilar Guam/Chief Planner

ATTACHMENTS: Oct. 28, 2015 GLUC Agenda-Disposition May 8, 2015 Phillip Schrage Letter September 16, 2015 Fred Yamon Letter Application 2008-003B NOA dated 3-29-2013 Application 2008-003 NOA dated 3-19-2008

Case Planner: Frank .P. Taitano

GUAM LAND USE COMMISSION



Chairman Lawrence S. Rivera Vice Chairman John Z. Arroyo Commissioner Conchita D. Bathan Commissioner Tricee P. Limtlaco Commissioner Victor F. Cruz Commissioner Tae S. Oh Commissioner, Vacant

Michael J.B. Borja, Executive Secretary Kristan Finney, Assistant Attorney General

AGENDA - Disposition

Regular Meeting Thursday, October 22, 2015 1:30 p.m.

Department of Land Management Conference Room 590 S. Marine Corps Drive, 3rd Floor, ITC Building, Tamuning

I. Notation of Attendance [X] Quorum 1:40 p.m. [] No Quorum [Present were: Vice Chairman John Arroyo, Commissioners Conchita Bathan, Tricee Limitaco, Victor Cruz and Tae Oh, Executive Secretary Michael Borja, Legal Counsel Kristan Finney, Chief Planner Marvin Aguilar, Case Planners Frank Taitano, Celine Cruz and Recording Secretary Cristina Gutierrez]

Excused Absence - Chairman Larry Rivera

- II. Approval of Minutes
 - GLUC Regular Meeting of Thursday, September 24, 2015 [Motion to approve the Minutes of 9/24/2015 was passed unanimously subject to corrections to be submitted to the Recording Secretary by COB today [No corrections noted]; 5 ayes, 0 nay]
- III. Old or Unfinished Business [None]
- IV. New Business

Zone Change

A. The Applicant, Richard K. Lai represented by Daniel D. Swavely; request for zone change from "A" (Rural) to "R2" (Multi Family) zone for the proposed development of a twenty-unit residential structure, on Lot 5-2 NEW, Block 2, Tract 219, in the Municipality of Barrigada, under Application No. 2014-37.

Case Planner: Frank Taitano

[Review/Approval of Application No. 2014-37 was postponed and will be rescheduled pending results of a village meeting hosted by the Mayor of Barrigada which is scheduled for November 3, 2015.]

V. Administrative and Miscellaneous Matters

Horizontal Property Regime

B. The Applicant, Luxury Beachfront Partners, LLC represented by Melinda C. Swavely, Esq.; request for an eighth Supplementary Final Public Report for Blue Lagoon Condominium, on Lot 5124-1-3-R1, in the Municipality of Tamuning, in an "H" (Hotel/Resort) zone, HPR No. 152, under Application No. 2007-141.

Case Planner: Celine Cruz

[Motion to issue the Applicant's request for an 8th Supplementary Final Public Report with an expiration date of November 2016 was passed unanimously by the Commission; 5 ayes, 0 nay.]

Conditional Use/Renewal

C. The Applicant, Reliable Builders, Inc. represented by Daniel D. Swavely; submits its second annual report and renewal request for a conditional use permit for its temporary workforce housing facility, on Lot 5160-6-3, Harmon, in the Municipality of Tamuning, under Application No. 2000-12B.

Case Planner: Frank Taitano

[Motion to approve the renewal of the applicant's conditional use permit for its temporary workforce housing was passed unanimously with the condition that the applicant continues to adhere to the conditions stated in the original NOA issued by the Commission, dated 10/14/2011 (Doc #828333) with the exception of condition no. 5 (6-month status report requirement) with an expiration date of one year from the date of recordation of the NOA issued by the GLUC at its meeting of 10/22/2015.]

- Acting Chairman Arroyo inquired on the status of a meeting to be scheduled with the Holiday Resort (with
 reference to Matapang Beach Park). Chief Planner Aguilar advised the Commission that a meeting is
 scheduled on November 3, 2015 with the General Manager of the Holiday Resort with Commissioner Oh in
 attendance to act as an interpreter at the meeting, and will update the Commission accordingly.
- Discussion on recent law passed by the Legislature with reference to the Municipal Planning Councils inclusion at ARC meetings; and, revision of GLUC documents to include the MPCs.
- It was the order of the Commission that Grandview Development be notified to attend the next GLUC hearing scheduled for November 12, 2015 to provide a status report of the Tumon Bay Shopping Center and its Notice of Action.

VI. Adjournment [Meeting was adjourned at 2:40 p.m.]

2149 Army Drive Dededo, Guam 96913 Tel No (671) 649-2470 P.O. Box CM, Hagatna, GU 96932 Fax No (671) 646-9116

May 8, 2015

Mr. Michael Borja, Executive Secretary Guam Land Use Commission Department of Land Management P.O. Box 2950 Hagatna, Guam 96932

Subject:

Extension of GLUC Approval for Building and Grading Permit.

Grandview Development LLC Application No. 2008-003B

Hafa Adai Mr. Borja,

This is to inform the Guam Land Use Commission that Grandview Development LLC Is actively pursuing the development of our Tumon Bay Mall. To date, we have obtained a DPW building permit to install underground power, water and sewer utilities; landscaping of road frontage; parking stalls; perimeter retaining wall (Ref. Building Permit No. B14000468) Cost of improvements = \$3,345,923.

We encountered inadvertent delays in obtaining a building permit due to a necessary dialogue and coordination with Guam Waterworks regarding infrastructure improvements. Therefore, we are requesting the GLUC to further grant us an extension to continue with the construction of the Tumon Bay Mall pursuant to conditions stipulated in the Notice of Action in reference to Application No. 2008-003B.

Sincerely,

Phillip M. Schrage

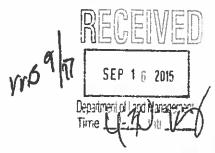
Senior Vice President-

Grandview Development LLC

2149 Army Drive, Barrigada, Guam 96913 Tel No (671) 649-2470 P.O. Box CM, Hagatna, Guam 963932 Fax No (671) 646-9116

September 16, 2015

Mr. Michael Borja, Executive Secretary Guam Land Use Commission Department of Land Management P.O Box 2950 Hagatna, Guam 96932



RECEIVED

Subject:

Extension of GLUC Approval for Building and Grading Permit.

Grandview Development LLC Application No. 2008-003B

1213 Discuss

Hafa Adai Mr. Borja,

Relative to our May 8, 2015 letter, the building permit for Phase 1 of the project was issued on August 28, 2015 and BME & Sons Inc., the general contractor, has commenced their work. Expected completion of Phase 1 is 270 days from August 28, 2015.

Please note that we have decided not to move forward with Tumon Bay Night Market project. If you have any questions you may call me at 635-1107.

Sincerely,

Fred B. Yamon

AVP-Construction Manager Grandview Development LLC

Cc: Phillip M. Schrage-SVP Group Operations & Leasing

Encl: May 8, 2015 Letter

Building Permit B14000468

2149 Army Drive, Barrigada, Guam 96913 Tel No (671) 649-2470 P.O. Box CM, Hagatna, Guam 963932 Fax No (671) 646-9116

May 8, 2015

Mr. Michael Borja, Executive Secretary Guam Land Use Commission Department of Land Management P.O. Box 2950 Hagatna, Guam 96932

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Sincerely,

Phillip M. Schrage

Senior Vice President

Grandview Development LLC



The Honorable
EDDIE BAZA CALVO
Governor

The Honorable
RAY TENORIO
Lt. Governor



Glenn Leon Guerrero
Director
Felix C. Benavente
Deputy Director

OFFICE OF BUILDING INSPECITON & PERMIT TERRITORY OF GUAM

BUILDING PERMIT

		DATE:	August 28, 2015	PERMIT NO: _	B14000468
APPLICANT:	BME & SONS	INC.	CONT	RACTOR LIC. NO: _	3028
ADDRESS:	P.O. BOX 2440	02 GMF			
PERMIT TO:	CONSTRUCT	() STOR	Y PROPOSED USE:	'OMMERCIAI	ı) UNITS
LOCATION:	TUMON SAN	VITORES	ROAD 2	ONING DISTRICT:	C
TRACT:	LOT:	5131 513	1-1 5132-R1 5126-	3-1 5126-3-R1 E	BLOCK:
BUILDING D	IMENSIONS:	FT.	WIDE, BY:	FT. LONG, BY:	IN HEIGHT
TYPE:	USE	GROUP:	M FOU	NDATION: COI	NCRETE
REMARKS:		E AREA,	UND POWER, WA PAINTING PARK ALL		
AREA OR VOI	LUME:	COST:	\$3,615,000.00	PERMIT FEE: _	\$13,156.68
OWNER:	GRAND VIEV	V DEVELO	OPMENT		
ADDRESS:	2149 ARMY D DEDEDO	R. SAN M		, , , /,	A
			BUILDING OFFICIAL:	In tuling	
				Mr. Joseph Building Inspection &	D. Guevara Permit Administrator

BUILDING PERMIT SHALL EXPIRE IF THE WORK AUTHORIZED IS NOT COMMENCED WITHIN THREE (3) MONTHS OR IS SUSPENDED OR ABANDONED FOR A PERIOD OF THREE (3) MONTHS AFTER WORK HAS BEEN COMMENCED.

	island of Guam, Government of Guam Department of Land Manageme Officer of the Recorder
	File for Record is Instrument No. 850531
	On the Year 3 Month D4 Day 6 Time 5-49
	Recording Fee DE-OFFICIO Receipt No.
	Deputy Recorder Quanaguy
weep tot I	Space above for Recordation

IMPORTANT NOTICE - READ CAREFULLY

"Pursuant to Section 5 of Executive Order 96-26, the applicant must apply for and receive a building or grading permit for the approved GLUC/GSPC project within one (1) year of the date of Recordation of this Notice of Action, otherwise, the approval of the project as granted by the Commission shall expire. This requirement shall not apply for application for Zone Change***."

GUAM LAND USE COMMISSION

Department of Land Management Government of Guam P.O. Box 2950 Hagatña, Guam 96932



NOTICE OF ACTION

March 29, 2013
Date

To: Grandview Development, LLC c/o Felix C. Benavente 2149 San Miguel Building, Suite 1, Army Drive Dededo, Guam 96929

Application No. 2008-003B

The Guam Land Use Commission, at its meeting on March 28, 2013.
/ Approved/ Disapproved _XX/ Approved with Conditions
/ Tabled
Your request on Lot Nos. 5131NEW, 5131-1, 5126-3-1NEW, Municipality of

SUBDIVISION
/ Tentative
/ Final
/ Extension of Time
/ PL 28-126, SECTION 1(A)
ONE CHANGE DOES NOT CONSTITUTE vernor for his approval. Applicant shall ence 21 GCA (Real Property), Chapter on).]
CONTAL PROPERTY REGIME reliminary
inal upplementary (Specify)

oplication No. 2008-003B

NOTICE OF ACTION

NOTICE OF ACTION

Grandview Development, LLC

RE: Lot Nos. 5131NEW, 5131-1 & 5126-3-1NEW

Municipality of Tamuning

GLUC Hearing Date: March 28, 2013

Date: March 29, 2013

Page 3 of 4

<u>APPLICATION DESCRIPTION</u>: The applicant, Grandview Development, LLC represented by Felix C. Benavente is requesting for an Amended Tentative Development Plan approval for the Grandview Shopping Mall (formerly Ino Corporation's Tumon Bay Shopping Center). Tumon, Municipality of Tamuning.

<u>COMMISSION DECISION:</u> The Guam Land Use Commission <u>APPROVED</u> the applicants request subject to the following conditions:

- A. Applicant continues to adhere to the March 13, 2008 conditions listed on the original Notice of Action; and
- B. That the March 13, 2008, Notice of Action be amended to show that it was temporarily suspended from October, 2011 to March, 2013 with a new expiration date of April, 2014, and
- C. That the proposed number of parking stalls to be provided on Lots 5126-2-1, 5126-2-2 and 5126-2-R2 should not be less than 174; and
- D. That Applicant, within six months, returns before the Commission with a status report.

Marvin Q. Aguilar

Acting Guam Chief Planner

4-01-2013

e Lawrence

Date

Application No. 2008-003B

Acting Chairman

Guam Land Use Commission

Case Planner: Frank P. Taitano Cc: Building Permits Section, DPW

Real Property Tax Division, Department of Revenue and Taxation

NOTICE OF ACTION

Grandview Development, LLC RE: Lot Nos. 5131NEW, 5131-1 & 5126-3-1NEW

Municipality of Tamuning

GLUC Hearing Date: March 28, 2013
Date: March 29, 2013

Page 4 of 4

CERTIFICATION OF UNDERSTANDING

Application No. 2008-003B

I/We(Applicant [Please print name])	(Representative [Please print name])
building or grading permit must be or project within one (1) year of the	on 5 of Executive Order 96-26, that a obtained for the approved GLUC/GSPC date of recordation of this Notice of of the project as granted by the
The Commission may grant two (sapproval period at the time of initial a	2) one-year extensions of the above approval.
Action and further AGREE TO ANY AN	conditions above as a part of the Notice of ID ALL CONDITIONS made a part of and ted by the approval from the Guam Land Use
Signature of Applicant Date	Signature of Representative Date
ONE (1) COPY OF RECORDED N	NOTICE OF ACTION RECEIVED BY:
Applicant Date	Representative 4/14/2013

Atta	ch	ma	nt	2
ALLd	L I	me		_

Attachment 2
Island of Guam, Government of Guam
Department of Land Management
97071G
The lot fecous is insecutioned.
1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1
The - Williams
Recording Fee Receipt No
Deputy Recorder ATB anglis for

(Space above for Recordation)

"Pursuant to Section 5 of Executive Order 96-26, the applicant must apply for and receive a building or grading permit for the approved GLUC/GSPC project within one (1) year of the date of Recordation of this Notice of Action, otherwise, the approval of the project as granted by the Commission shall expire. This requirement shall not apply for application for Zone Change."



GUAM LAND USE COMMISSION
Department of Land Management
Government of Guam
P.O. Box 2950
Hagatna, Guam 96932

NOTICE OF ACTION

March 19, 2008 Date Typed



To:

Ino Corporation c/o Ignacio F. Santos P.O. Box 26342 GMF, Barrigada, Guam 96913 Application No. 2008-03

The G	Guam Land Use Commission, at i	Liven, i	Disapproved
	Approved	V	
<u>XX</u> /	Approved with Conditions	/	Tabled
		196 2 1 51	126.2 D1 5131 5131-1 & 5134-K
your <u>Tuma</u>	request on <u>Lot Nos. 5126-1, 51</u> on, <u>Municipality of Tamuning,</u> fo	1 <u>26-3-1, 51</u> or a:	126-3-R1, 5131, 5131-1 & 5132-R
your Tumo	request on <u>Lot Nos. 5126-1, 510n, Municipality of Tamuning,</u> fo Zone Change**	126-3-1, 51 or a: /	Subdivision Variance
your Tume	on, Municipality of Tamuning, fo	126-3-1, 51 or a: / /	

^{**}Approval by the Guam Land Use Commission of a Zone Change DOES NOT CONSTITUTE FINAL APPROVAL but rather a recommendation to the Governor for his approval. Notification will be sent upon action taken by the Governor. [Ref: 21 GCA (Real Property), Chapter 6 (Zoning Law), Section 61634 (Decision by the Commission).]

NOTICE OF ACTION Ino Corporation Lot No. 5126-1, 5126-3-1, 5126-3-R1, 5131, 5131-1 & 5132-R1, Tumon Municipality of Tamuning GLUC Meeting of March 13, 2008 Page 2 of 4

APPLICATION DESCRIPTION: The applicant. Ino Corporation represented by Mr. Ignacio F. Santos is requesting approval of its Tentative Development Plan application to construct a Multi-Family Resort and Commercial Development consisting of 396 multi-family dwellings (Condominiums) with accessory uses and 74,930 square feet of commercial area..

CONDITIONS: The Guam Land Use Commission Approved Application No. 2008-03 subject to Planning Staff conditions;

DEPARTMENT OF LAND MANAGEMENT (DLM):

- 1. That the applicant adhered to the ARC conditions and requirements as stipulated on their official Position Statement;
- 2. That prior to issuance of an Occupancy Permit, the applicant, submit to the Guam Chief Planner for Approval, a Landscaping Plan and that the Landscaping Project be at least 2% of the construction cost, to be certified as such by a registered Architect or Engineer;
- That the applicant submit a Site Plan in accordance to the as-built conditions, to the Guam Chief Planner for his review and approval;
- That pursuant to Section IV(E) of the Interim "H" Resort-Hotel Zone Rules and Regulations a performance bond in the amount of One Hundred and Ten Percent (110%) of the infrastructure costs of the project, and not less than Two Thousand Dollars (\$2,000) is required and a copy shall be submitted to the Guam Chief Planner, Department of Land Management;
- 5. That pursuant to Section IV(F) of the Interim "H" Resort-Hotel Zone Rules and Regulations and based on consultation with applicant's representative a period of four (4) years will be an acceptable time period within which all of the improvements authorized in the Tentative Development Plan shall be completed;
- 6. Subject Parcels shall be consolidated and the survey map shall be approved via the administrative map review and approval process prior to obtaining a Building Permit;
- 7. The applicant is put on notice that the proposed project may be withheld due to Public Sewer System problems in Tumon.

GUAM WATERWORKS AUTHORITY (GWA):

GWA has no objection to the Tentative Development Plan if the conditions noted below are met and if a resolution to the capacity issues can be reached prior to the completion of the project. Otherwise, connection of the applicant's proposed development may cause or contribute to sewage overflows in the Tumon Bay area. Such a connection cannot be approved by GWA.

GWA conditional approval does not constitute a guarantee that water and wastewater service immediately available to the subject lot. Any extension of the water and wastewater systems and/or capacity upgrades required to serve the property shall be subject to the rules and regulations of GWA and shall be at the expense of the developer.

- 1. GWA currently does not have adequate sewer collection and pumping capacity in Tumon to support the proposed development. A consortium of developers, GWA and the Guam Legislature are currently reviewing funding options to enable expedited large sewage capacity improvement projects in Tumon that would consist of additional gravity sewers, force mains and pump stations. GWA strongly recommends that the developer participates in this process. Until the process is completed, no sewage system capacity will be available to the development. Applicant's proposed plan to connect to the existing 24-inch sewer line along Marine Drive via sewer lift station has been considered however, the proposed sewer line connection has also reached its operational capacity. Development shall connect its wastewater point of connection along San Vitores Road.
- 2. Design calculations shall include a fixture count summary for evaluation and determination of most appropriate meter size. Water service point of connection, connection details, water service line and meter size must be illustrated in the drawings and approved by GWA. If water meter size required to meet fire flow requirements cannot register efficiently under average daily flows, then a separate fire flow line shall be provided.

Application No. 2008-03

NOTICE OF ACTION **Ino Corporation** Lot No. 5126-1, 5126-3-1, 5126-3-R1, 5131, 5131-1 & 5132-R1, Tumon **Municipality of Tamuning GLUC Meeting of March 13, 2008** Page 3 of 4

- Water point of connection shall be connected to the existing 16-inch water distribution lines located along 3. San Vitores Road.
- The project detail design shall include an evaluation of fire flow requirements and system capacity to 4. provide fire flows. GWA conditional approval does not constitute a guarantee that the system is adequate to provide fire protection at the site.
- Plans and specifications must be submitted for review and approval of GWA prior to construction. 5. Submittals shall include water and sewer design calculations and complete drawings and specification. GWA recommends that project consultants coordinate development of utility plans with GWA well in advance of building permit submittal (conceptual and 60% development stages). Final submittal shall include electronic and paper copies of plans (electronic copy required for utilities only).
- Exterior grease traps (interceptors) shall be installed and maintained for all proposed restaurants (and other 6. fats, oils and grease generators). Grease trap plans shall be submitted to GWA and GEPA for review and approval. Submittal shall include design calculations denoting loading rate, required capacity and recommended cleaning interval. GWA requires a terminal manhole be installed at the point of connection for cleaning and inspection purposes.

Applicant is hereby on notice that water and sewer development charges may be applicable based on its submittals of the final development plans.

GUAM POWER AUTHORITY (GPA):

GPA has no objection, however customer is required to comply with the following pursuant to the National Electric Safety Code and GPA's Service Rules and Regulations.

- Coordinate overhead/underground power requirements with GPA Engineering for new structures; 1.
- Maintain minimum clearances as defined by the current edition of the National Electrical Safety Code; 2.
- Maintain adequate clearance between any structures and electric utility easements in accordance with NESC 3. and GPA requirements;
- Secure electric utility easements required;
- Provide scheduling and magnitude of project power demand requirements for new loads;
- All relocation costs for GPA's facilities, if necessary, is 100% chargeable to the applicant including but not 6. limited to labor and materials;
- Primary distribution line extensions and GPA service connections must adhere to the guidelines outlined in 7. the current issue of GPA's Service Rules and Regulations;
- A "fair share" assessment for power generation, transmission and/or substation facilities may be required. 8.

DEPARTMENT OF PARKS AND RECREATION (DPR):

DPR's approval of subject application will be based on the following conditions:

- All clearing and grading activities, including excavations, shall be subject to inspections by the Guam 1. Historic Preservation Office (GHPO). The area shall be accessible to GHPO inspectors at all times during construction activities. Construction field office will be notified prior to inspections. The developer shall notify GHPO when clearing and grading activities are scheduled.
- If there is any discovery of unanticipated archaeological remains, including skeletal remains, in the 2. project site, the on-site construction manager or his representatives shall immediately halt activity and shall make reasonable effort to secure the area and notify GHPO immediately. Skeletal remains shall be treated as human remains until verified otherwise.
- If our inspectors determine that significant historical properties, including burials, are inadvertently 3. encountered, the project shall be subject to "cease work order" where impacted or on the entire project site if so determined by GHPO, and archaeological measures/mitigation shall be required.

NOTICE OF ACTION Ino Corporation Lot No. 5126-1, 5126-3-1, 5126-3-R1, 5131, 5131-1 & 5132-R1, Tumon Municipality of Tamuning GLUC Meeting of March 13, 2008 Page 4 of 4

We note that there is a recorded "bull cart trail" that runs along the project site from Lot 5123-R1 at Pale 4 San Vitores to the end of Lot 5131 and upward towards Route 1, Marine Drive. The developer shall consult with the Department of Parks and Recreation (DPR) regarding the "bull cart trail" in accordance with Public Access to the Ocean Shore and Traditional Right-of-Way, Public Law No. 19-05. Carlos R. Untalan Acting Guam Chief Planner Chairman, GLUC Case Planner: Frank Taitano Attachment(s): ARC Distribution List cc: Building Permits Section, DPW (Attn: Mr. Jesus Ninete) CERTIFICATION OF UNDERSTANDING I/WE (Applicant, pls. print) understand that pursuant to Section 5 of Executive Order 96-26, the applicant must apply for and receive a building or grading permit for the approved GLUC/GSPC project within one (1) year of the date of Recordation of this Notice of Action, otherwise, the approval of the project as granted by the Commission shall expire. This requirement shall not apply for application for Zone Change. The Commission may grant two (2) one-year extensions of the above approval period at the time of initial approval. I/We, further agree and accept the conditions above as a part of the Notice of Action, and further agree to adhere to any and all conditions made a part of and attached to this Notice of Action as mandated by the approval of the Guam Land Use Commission/Guam Seashore Protection Commission. Signature of Applicant Signature of Re Date: ONE (1) COPY OF RECORDED NOTICE OF ACTION RECEIVED BY:

Applicant or Representative

Date